



भारत का राजपत्र The Gazette of India

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प्राधिकार से प्रकाशित
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सं. 44] नई दिल्ली, नवम्बर 3—नवम्बर 9, 2024, शनिवार/कार्तिक 12—कार्तिक 18, 1946
No. 44] NEW DELHI, NOVEMBER 3—NOVEMBER 9, 2024, SATURDAY/KARTIKA 12—KARTIKA 18, 1946

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 30 अक्टूबर, 2024

का.आ. 2035.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, सरकार भारत के दूतावास, बहरीन में सुश्री श्रुति तिवारी, सहायक अनुभाग अधिकारी, को अक्टूबर 30, 2024 से सहायक कांसुलर अधिकारी के रूप में कांसुलर सेवाओं का निर्वहन करने के लिए अधिकृत करती है।

[फा. सं. टी-4330/01/2024(34)]

एस.आर.एच. फहमी, निदेशक (सीपीवी-1)

MINISTRY OF EXTERNAL AFFAIRS**(CPV Division)**

New Delhi, the 30th October, 2024

S.O. 2035.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Ms. Shruti Tiwari, Assistant Section Officer as Assistant Consular Officer in the Embassy of India, Bahrain, to perform the consular services as Assistant Consular Officer with effect from October 30, 2024.

[F. No. T-4330/01/2024(34)]

S.R.H FAHMI, Director (CPV-I)

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 30 अक्टूबर, 2024

का.आ. 2036.—केंद्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में दूरदर्शन महानिदेशालय के अधीनस्थ कार्यालय यथा दूरदर्शन केंद्र, भुवनेश्वर जिनके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा. सं. ई-11017/10/2017-हिंदी]

प्रीति थापा, सहायक निदेशक (राजभाषा)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 30th October, 2024

S.O. 2036.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the subordinate office of Directorate General, Doordarshan namely Doordarshan Kendra, Bhubaneswar whereof more than 80% of the staff have acquired the working knowledge of Hindi.

[F. No. E-11017/10/2017-Hindi]

PREETI THAPA, Assistant Director (O.L.)

पत्तन, पोत परिवहन और जलमार्ग मंत्रालय**(एसयू अनुभाग)**

नई दिल्ली, 21 अक्टूबर, 2024

का.आ. 2037.—भविष्य निधि अधिनियम, 1925 (1925 का 19) की धारा 8 की उप-धारा (2) के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, एतद्वारा निदेश देती है कि उपरोक्त अधिनियम (धारा 6क के अलावा) के प्रावधान भारतीय नौवहन निगम लिमिटेड के कर्मचारियों के हित के लिए स्थापित की गई भविष्य निधि पर लागू होंगे।

व्याख्यात्मक ज्ञापन:- यह प्रमाणित किया जाता है कि पूर्व व्यापी प्रभाव से इस अधिसूचना के जारी होने से किसी भी व्यक्ति पर प्रतिकूल से प्रभाव नहीं होगा।

[फा. सं. एसएस-11025/1/2022-एसयू]

के. एस. गीता, अवर सचिव

MINISTRY OF PORTS, SHIPPING AND WATERWAYS**(Su Section)**

New Delhi, the 21st October, 2024

S.O. 2037.—In exercise of the powers conferred by sub-section (2) of section 8 of the Provident Fund Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act (except section 6A) shall apply to the Provident Fund established for the benefit of the employees of the Shipping Corporation of India Ltd.

Explanatory memorandum:—It is certified that no person shall be adversely affected by giving this notification with retrospective effect.

[F. No. SS-11025/1/2022-SU]

K. S. GEETHA, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 23 सितम्बर, 2024

का.आ. 2038.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय नंबर II, चंडीगढ़ के पंचाट (संदर्भ संख्या 244/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/08/2024 को प्राप्त हुआ था।

[सं. एल -23012/38/2004-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 23rd September, 2024

S.O. 2038.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 244/2005) of the **Central Government Industrial Tribunal-cum-Labour Court NO 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **29/08/2024**.

[No. L-23012/38/2004 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE**In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.****Present: Mr. Kamal Kant, Presiding Officer.**

ID No. 244 /2005

Registered on:- 05.08.2005

Dharam Singh S/o Basakhi Ram C/o Shri Hem Prabh S/o Sh. Bali Ram, R/o Village Bhayarta, P.O. Chanahan, Teh. & Distt. Mandi (HP).

.....Workman

Versus

1. Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh through its Chairman.
2. The Chief Engineer, BSL Project Sundernagar Township, Distt. Mandi, (HP).

.....Respondents/Managements

AWARD**Passed on:- 18.07.2024**

Central Government vide Notification No.L-23012/38/2004-IR(CM-II), Dated 07.07.2005, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the demand of Shri Dharam Singh for reinstatement in the services of BBMB, Sunder Nagar is legal and justified? If so, to what relief the concerned workman is entitled and from which date?

1. The brief facts, related to the case are that the construction of Beas Sutluj Link Project{hereinafter called as BSL(P)} started in the year 1962 under Beas Control Board, which was constituted on 10.02.1961 with its headquarter at Sundernagar and this project was under the control of Centre Government, who had been constructing, maintaining, operating and administrating it through various Boards in different phases. After passing of Pb. Re-Organisation Act, 1966(hereinafter called “Re-Organisation Act”) Beas Control Board was replaced by Beas Construction Board (hereinafter called as BCB). The workman was employed by BCB on 15.11.1974. The workman who was employed in Beas Project (Unit-1) become the employee of Bhakra Beas Management Board(hereinafter called as BBMB) in pursuance of proviso (1) of Section 80(3) and Section 80(5) of Re-organisation Act and the workman become the employee of the Centre Government under the management of B.B.M.B. from 15.05.1976. The workman has completed 240 days in every calendar year and was not interrupted till his retrenchment. The employer made a bulk retrenchment of project employees in the year 1977 and 1978 and also in stages thereafter till 1984. The workman was also retrenched by the employer on 23.09.1977 on account of reduction in strength due to part completion of the BSL(P) and re-employment certificate was issued by the office of re-settlement B.S.L/B.B.M.B. Sundernagar for the re-employment of the retrenched workmen of B.S.L.(P)(BBMB) in accordance with provision of The Act. After the retrenchment of the workman, thousands of other persons were appointed secretly by employer, violating Section 25-G and Section 25-H of the I.D. Act, 1947. The employer is also doing unfair labour practices as defined in Section 2(R)A of the ID Act. Management has also violated the provisions of Rules 77 and 78 of Industrial Dispute(Central) Rule, 1957(hereinafter called “The Industrial Rules”). By filling vacant posts, the employer declared some posts as surplus and retrenched the employees working on those posts.

2. It is also maintained that the present workman and other workmen have filed a Civil Writ Petition No.403/1996, titled as Sant Ram and 87 others Vs. BBMB in the Hon’ble High Court of Shimla for their re-employment and in the said writ petition management filed reply dated 16.04.1996 by way of affidavit and admitted that retrenched workmen are employee of BBMB. The workmen have then withdrew the writ petition and filed civil suits for declaring them as a retrenched workmen of BBMB before the Sub-Judge, 1st Class, Sunder Nagar, Distt. Mandi(HP), on 21.01.1997 and later on those suits were decided on 05.07.2002 and all plaints were returned to the workmen to be filed before the competent authority on the basis of which the present proceedings were initiated after referring of the dispute of workman from the Ministry of Labour on 07.07.2005. Thereafter, management filed writ petition before the Hon’ble Punjab & Haryana High Court against the order of Ministry on 07.07.2005 and the same was dismissed on 07.05.2007 and Special Leave Petition filed bearing nos.16939-17007 of 2007 in Hon’ble Supreme Court of India by the management was also dismissed on 08.07.2014. It is therefore, prayed that the claim petition of the workman may kindly be allowed and workman be continued in the service of the management and be regularized and further be given all the consequential benefits.

3. Management filed written statement, alleging therein that workman is Ex-work charged employee of Beas Construction Board, which was constituted under Section 80(1) of the Re-organisation Act. The workman was retrenched after completion of the work of BCB in the year 1977. The workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of ID Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Punjab Govt. Irrigation Department prior to the re-organisation of the erstwhile State of Punjab on 01.01.1966. After re-organisation the work of BSL(P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organisation Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board(hereinafter called as BMB) constituted under Section 79(1) of the Re-organisation Act. It is further stated under Section 80(5) of the Re-organisation Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organisation Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. However, it is stated that 1093 work-charged and 12 contingent paid employees of Beas Project were sent on job order basis to Ranjit Sagar Dam, Punjab. They were taken over by the management under the benevolent policy of the Central Govt. as Central Govt. had given directions to BBMB to absorb these employees. The remaining work-charged employees were not entitled for the said benefit. Even work-charged employees of the BCB had filed a petition in the Hon’ble Supreme Court of India, titled as Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440, in which their claim for absorbing them in

BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the workman is hopelessly time barred and the workman has no legal enforceable right to claim employment in BBMB. It is prayed that claim be dismissed.

4. A replication was also filed by workman contravening the facts taken in written statement as reiterating the facts as stated in claim petition.

5. Parties were given opportunity to lead evidence.

6. The workman has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A and has been cross-examined by the learned law officer of management.

7. The management has filed affidavit of N.M. Jain, Sub-Divisional Officer, Sub- Division BBMB Sunder Nagar, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned counsel of workman.

8. While arguing the case, learned Law Officer for the management contended that initially Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organisation Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organisation Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Present workman was employed as work charged employee 15.11.1974 and was retrenched on 23.09.1977. All similar work charged employees including the present workman was engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440 has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India.

9. So far as the claim of the workman regarding re-employment after retrenchment on 23.09.1977 is concerned, workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial pleas and to secure the work charge employees after completing the work can engage after completion of project at any time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

"It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."

10. Because the present workman had not completed 10 years of service so he is not entitled for re-employment. Learned representative for the management further contended that in this case workman was retrenched on 23.09.1977 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and his claim is hopelessly time barred as he has filed the present claim petition on 20.07.2005. To support this view he has placed reliance in the case titled as Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682, wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 27 years. He also relied upon the case titled as Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018(Annexure R-4) where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the ID Act does not prescribed time limit for referring such dispute. In the present case workman was engaged as Beldar in the year 1974 and was discharged on 23.09.1977 and he has sought re-employment after 31 years which was held to be highly time barred. Thus, he contended that claim of workman is time barred. Workman was discharged on 23.09.1977 and thereafter he filed present claim before the Labour Conciliation Officer on 30.11.2005.

11. While arguing the case, learned AR for the workman contended that in this case workman was discharged on 23.09.1977 due to reduction in strength and he was issued discharge certificate by Sub Divisional Officer, BBMB Sundernagar. He referred to Section 25-H of the ID Act which provides re-employment of retrenched workman. He further has drawn the attention of the Court towards the statement of the workman. He was required to be adjust in view of under Section 25-G of the Act by the management Discharge Certificate was issued by the Management. He

was not given any employment. While arguing further, learned AR for the workman referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957(hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workman and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. She also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no limitation period has been prescribed under the Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the ID Act. Learned AR for the workman further contended that even reference made by the Government dated 07.07.2005 was challenged by the management in the Hon'ble Punjab & Haryana High Court vide Writ Petition No.3100 of 2006 and their writ petition was dismissed by the Hon'ble High Court on 07.05.2007. Even SLP filed against the order dated 07.05.2007 was upheld by the Hon'ble Supreme Court in SLP No.16979/2007 dated 08.07.2014.

12. I have given due consideration to the arguments advanced by the learned AR for the workman and also for the management.

13. The management relied upon mainly in this case on the case titled as Jaswant Singh and another(supra), which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of petitioners were employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the BhakraNangal Scheme.

14. In respect of these employees, it was held as follow:-

“To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi- permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes.”

15. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

“41. A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.

42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.

43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the provisions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment⁹ and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.

44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.

45. *There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section 18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. JatinChakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.*

46. *Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen "virtually agreed". The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.*

47. *Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half years caused in filing the SLP shall have to be dismissed."*

16. Thus, from the above observation of Supreme Court it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

17. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner(Central), New Delhi under Section 12 of the ID Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceeding an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

18. So far as the settlement executed between the work charged employees and management through unions, the same has not been produced by the management despite opportunity was given to file the same. Thus, adverse inference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as 2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another wherein it has been held "that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party". In this case also as per order dated 01.05.2024 of this Tribunal. Respondent were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of ID Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. However, despite of availing 2-3 opportunities i.e. 20.05.2024, 20.06.2024 and 09.07.2024 the said policy was not produced and as such adverse inference can be drawn against the management in view of the above law.

19. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follow:-

“Regulation of Services of the workcharged employees.”

It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which they may be suited. From the very nature of employment the services of such workman automatically come to an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10 years upto 20 year, should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the employer could not be compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed he got employment for a long time.

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be struck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I feel that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear in mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board has by and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee. Even Himachal Pradesh Government generally followed the Punjab policy. The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government. The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well as the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect. Moreover financial implications and other complications are involved.

In such circumstances stated above I would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of. The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture. Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is worked out, honestly stated. No doubt, what is referred to me is the matter of regularization of the services of work charge employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical

fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be employed. To protect the workmen against this possible denial of their rights it is further directed that category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

20. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged employees after the completion of the work and it was also held by the learned CGIT that State Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

21. Admittedly, in this case, no effort was made by the respondent to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

77. Maintenance of seniority list of workmen. -*The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*

78. Re-employment of retrenched workmen. - (1) *At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefor, to the address given by him at the time of retrenchment or at any time thereafter:*

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:

Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]

(2) *Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:*

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.

22. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employ them. However, certainly in respect of workcharged employees present Respondent was directed by the Hon'ble Supreme Court in Judgment of Jaswant Singh (Supra) to give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employ them. Thus, it does not lie in the mouth of present Respondent that no relief can be granted against present Respondent as petitioners are not their employees.

A. So far as this argument of Ld. AR of the management that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover,

no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment. Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

“As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades”

Nothing has come on record that above directions were complied with.

23. Moreover, in the absence of production of settlement between work charged employees and management, it cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

24. As regard, this contention of learned AR of management that petitioners were not the employees of the BBMB but were the employees of BCB, the same is devoid of merit as Discharge certificate was issued by the BBMB. Moreover, as per respondent Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organisation Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organisation Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in Jaswant Singh case(supra) in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the management that BCB and BBMB are two separate entities is devoid of merit.

25. So far this argument of Law Officer for the respondent that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2005 and thereafter, several rounds of litigations have taken place. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of Jaswant Singh case (Supra).

26. As regard this fact that workman has stated in his cross-examination that he was not been paid compensation under Section 25-F of the Act. It is not his case that there was breach of Section 25-F of the Act by the management and further management has specifically stated that he was paid all terminal benefits. There is no suggestion given to the MW1 N.M. Jain that workman was not paid retrenchment compensation etc. Hence, it is held that workman was paid retrenchment compensation.

27. Further, there was non-compliance of Jaswant Singh Case (Supra), Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employ the workman. The only remedy left is to compensate the workman in term of money.

28. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

- i. Work charged employee who has completed 5 years of service shall be entitled for Rs.50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.
- ii. Work charged employee who has completed less than 5 years but more than 1 year would be entitled Rs.25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.
- iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

The present work charged has stated that he was employed on 15.11.1974 and was retrenched on 23.09.1977. There is no denial of this fact by the management and nothing has come out in the cross-examination of workman that he has not worked for the aforesaid period. Thus, it is held that he worked from 15.11.1974 to 23.09.1977 for about 2 years (less than 5 years) so he is entitled of Rs.25,000/- along with interest @9% per annum from the date of moving the application till its realization.

29. The reference is answered accordingly and stands disposed off.

30. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 24 सितम्बर, 2024

का.आ. 2039.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नंबर II, चंडीगढ़ के पंचाट (संदर्भ संख्या 197/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/08/2024 को प्राप्त हुआ था।

[सं. एल -23012/34/2004-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 24th September, 2024

S.O. 2039.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 197/2005) of the **Central Government Industrial Tribunal-cum-Labour Court NO 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **29/08/2024**.

[No. L-23012/34/2004 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH.****Present: Mr. Kamal Kant, Presiding Officer.**

ID No. 197 /2005

Registered on:-02.08.2005

Sant Ram S/o Shri Bengali, C/o Shri Hem Prabh S/o Sh. Bali Ram, R/o Village Bhayarta, P.O. Chanahan, Teh. & Distt. Mandi (HP).

.....Workman

Versus

1. Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh through its Chairman.
2. The Chief Engineer, BSL Project Sundernagar Township, Distt. Mandi, (HP).

.....Respondents/Managements

AWARD**Passed on:- 15.07.2024**

Central Government vide Notification No.L-23012/34/2004-IR(CM-II), dated 07.07.2005, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the demand of Shri Sant Ram for reinstatement in the services of BBMB, Sunder Nagar is legal and justified? If so, to what relief the concerned workman is entitled and from which date?

1. The brief facts, related to the case are that the construction of Beas Sutluj Link Project(hereinafter called as BSL(P)) started in the year 1962 under Beas Control Board, which was constituted on 10.02.1961 with its headquarter at Sundernagar and this project was under the control of Centre Government, who had been constructing, maintaining, operating and administrating it through various Boards in different phases. After passing of Pb. Re-Organisation Act, 1966(hereinafter called “Re-Organisation Act”) Beas Control Board was replaced by Beas Construction Board (hereinafter called “BCB”). The workman was employed by BCB on 06.06.1969. The workman who was employed in Beas Project(Unit-1) become the employee of Bhakra Beas Management Board(hereinafter called as BBMB) in pursuance of proviso (1) of Section 80(3) and Section 80(5) of Re-organisation Act and the workman become the employee of the Centre Government under the management of B.B.M.B. from 15.05.1976. The workman has completed 240 days in every calendar year and was not interrupted till his retrenchment. The employer made a bulk retrenchment of project employees in the year 1977 and 1978 and also in stages thereafter till 1984. The

workman was also retrenched by the employer on 30.03.1984 on account of reduction in strength due to part completion of the BSL(P) and re-employment certificate was issued by the office of re-settlement B.S.L/B.B.M.B. Sundernagar for the re-employment of the retrenched workmen of B.S.L.(P)(BBMB) in accordance with provision of the Act. After the retrenchment of the workman, thousands of other persons were appointed secretly by employer, violating Section 25-G and Section 25-H of the I.D. Act, 1947. The employer is also doing unfair labour practices as defined in Section 2(R)A of the ID Act. Management has also violated the provisions of Rules 77 and 78 of Industrial Dispute(Central) Rule, 1957(hereinafter called “The Industrial Rules”). By filling vacant posts, the employer declared some posts as surplus and retrenched the employees working on those posts.

2. It is also maintained that the present workman and other workmen have filed a Civil Writ Petition No.403/1996, titled as Sant Ram and 87 others Vs. BBMB in the Hon’ble High Court of Shimla for their re-employment and in the said writ petition management filed reply dated 16.04.1996 by way of affidavit and admitted that retrenched workmen are employee of BBMB. The workmen have then withdrew the writ petition and filed civil suits for declaring them as a retrenched workmen of BBMB before the Sub-Judge, 1st Class, Sunder Nagar, Distt. Mandi(HP), on 21.01.1997 and later on those suits were decided on 05.07.2002 and all plaints were returned to the workmen to be filed before the competent authority on the basis of which the present proceedings were initiated after referring of the dispute of workman from the Ministry of Labour on 07.07.2005. Thereafter, management filed writ petition before the Hon’ble Punjab & Haryana High Court against the order of Ministry on 07.07.2005 and the same was dismissed on 07.05.2007 and Special Leave Petition filed bearing nos.16939-17007 of 2007 in Hon’ble Supreme Court of India by the management was also dismissed on 08.07.2014. It is therefore, prayed that the claim petition of the workman may kindly be allowed and workman be continued in the service of the management and be regularized and further be given all the consequential benefits.

3. Management filed written statement, alleging therein that workman is Ex-work charged employee of Beas Construction Board, which was constituted under Section 80(1) of the Re-organisation Act. The workman was retrenched after completion of the work of BCB in the year 1977. The workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of ID Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Punjab Govt. Irrigation Department prior to the re-organisation of the erstwhile State of Punjab on 01.01.1966. After re-organisation the work of BSL(P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organisation Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board(hereinafter called as BMB) constituted under Section 79(1) of the Re-organisation Act. It is further stated under Section 80(5) of the Re-organisation Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organisation Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. However, it is stated that 1093 work-charged and 12 contingent paid employees of Beas Project were sent on job order basis to Ranjit Sagar Dam, Punjab. They were taken over by the management under the benevolent policy of the Central Govt. as Central Govt. had given directions to BBMB to absorb these employees. The remaining work-charged employees were not entitled for the said benefit. Even work-charged employees of the BCB had filed a petition in the Hon’ble Supreme Court of India, titled as Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440, in which their claim for absorbing them in BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the workman is hopelessly time barred and the workman has no legal enforceable right to claim employment in BBMB. It is prayed that claim be dismiss.

4. Parties were given opportunity to lead evidence.

5. The workman has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A and has been cross-examined by the learned law officer of management. He also tendered his evidence alongwith documents i.e. Ex. WW-1 Discharge Certificate and Ex. WW-2 re-settlement identity Card.

6. The management has filed affidavit of N.M. Jain, Sub-Divisional Officer, Sub- Division BBMB Sunder Nagar, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned counsel of workman.

7. While arguing the case, learned Law Officer for the management contended that initially Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organisation Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organisation Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Present workman was employed as work charged employee 06.06.1969 and was retrenched on 30.03.1984. All similar work charged employees including the present workman was engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be

termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440 has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India.

8. So far as the claim of the workman regarding re-employment after retrenchment on 30.03.1984 is concerned, workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial peace and to secure the work charge employees after completing the work can engage after completion of project at any time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

"It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."

9. Because the present workman had not completed 10 years of service so he is not entitled for re-employment. Learned representative for the management further contended that in this case workman was retrenched on 30.03.1984 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and his is hopelessly time barred as he has filed the present claim petition on 20.07.2005. To support this view he has placed reliance in the case titled as Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682, wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 27 years. He also relied upon the case titled as Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018 (Annexure R-4) where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the ID Act does not prescribed time limit for referring such dispute. In the present case workman was engaged as Beldar in the year 1969 and was discharged on 30.03.1984 and he has sought re-employment after 21 years which was held to be highly time barred. Thus, he contended that claim of workman is time barred. Workman was discharged on 30.03.1984 and thereafter he filed present claim before the Labour Conciliation Officer on 06.09.2005.

10. While arguing the case, learned AR for the workman contended that in this case workman was discharged on **29.11.1978** due to reduction in strength and he was issued discharge certificate by Sub Divisional Officer, BBMB Sundernagar. He referred to Section 25-H of the ID Act which provides re-employment of retrenched workman. He further has drawn the attention of the Court towards the statement of the workman. He was required to be adjust in view of under Section 25-G of the Act by the management Discharge Certificate was issued by the Management. He was not given any employment. While arguing further, learned AR for the workman referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957 (hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workman and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. She also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no limitation period has been prescribed under the Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the ID Act. Learned AR for the workman further contended that even reference made by the Government dated 07.07.2005 was challenged by the management in the Hon'ble Punjab & Haryana High Court vide Writ Petition No.3100 of 2006 and their writ petition was dismissed by the Hon'ble High Court on 07.05.2007. Even SLP filed against the order dated 07.05.2007 was upheld by the Hon'ble Supreme Court in SLP No.16979/2007 dated 08.07.2014.

11. I have given due consideration to the arguments advanced by the learned AR for the workman and also for the management.

12. The management relied upon mainly in this case on the case titled as Jaswant Singh and another(supra), which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of petitioners were employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the BhakraNangal Scheme.

13. In respect of these employees, it was held as follow:-

“To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi- permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes.”

14. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

“41. A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.

42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.

43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the provisions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment⁹ and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.

44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.

45. There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section 18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. JatinChakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.

46. Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen 'virtually agreed'. The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.

47. Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half years caused in filing the SLP shall have to be dismissed."

15. Thus, from the above observation of Supreme Court it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

16. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner(Central), New Delhi under Section 12 of the ID Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceeding an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

17. So far as the settlement executed between the work charged employees and management through unions, the same has not been produced by the management despite opportunity was given to file the same. Thus, adverse inference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as 2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another wherein it has been held "that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party". In this case also as per order dated 01.05.2024 of this Tribunal. Respondent were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of ID Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. However, despite of availing 2-3 opportunities i.e. 20.05.2024, 20.06.2024 and 09.07.2024 the said policy was not produced and as such adverse inference can be drawn against the management in view of the above law.

18. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follow:-

"Regulation of Services of the workcharged employees.

It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which they may be suited. From the very nature of employment the services of such workman automatically come to an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10 years upto 20 year, should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the employer could not compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed be got employment for a long time.

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be struck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I feel that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear in mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board has by and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee. Even Himachal Pradesh Government generally followed the Punjab policy. The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government. The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well as the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect. Moreover financial implications and other complications are involved.

In such circumstances stated above I would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture. Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is work out, honestly stated. No doubt, what is referred to me is the matter of regularization of the services of work charged employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be employed. To protect the workmen against this possible denial of their rights it is further directed that category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

19. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged employees after the completion of the work and it was also held by the learned CGIT that State Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

20. Admittedly, in this case, no effort was made by the respondent to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

77. Maintenance of seniority list of workmen. - *The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*

78. Re-employment of retrenched workmen. - *(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefor, to the address given by him at the time of retrenchment or at any time thereafter:*

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:

Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]

(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.

21. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employe them. However, certainly in respect of workcharged employees present Respondent was directed by the Hon'ble Supreme Court in Judgment of Jaswant Singh (Supra) to give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employe them. Thus, it does not lie in the mouth of present Respondent that no relief can be granted against present Respondent as petitioners are not their employees.

A. So far as this argument of Ld. AR of the management that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover, no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment. Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

"As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades"

Nothing has come on record that above directions were complied with.

22. Moreover, in the absence of production of settlement between work charged employees and management, it cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

23. As regard, this contention of learned AR of management that petitioners were not the employees of the BBMB but were the employees of BCB, the same is devoid of merit as Discharge certificate was issued by the BBMB. Moreover, as per respondent Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section

79 of the Punjab Re-organisation Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organisation Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in Jaswant Singh case(supra) in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the management that BCB and BBMB are two separate entities is devoid of merit.

24. So far this argument of Law Officer for the respondent that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2005 and thereafter, several rounds of litigations have taken place. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of Jawant Singh case (Supra).

25. However, it is added that workman was allowed terminal benefits as admitted by him. Moreover, it is also not case of the petitioner that there is breach of Section 25 F of the Act.

26. Further, there was non-compliance of Jaswant Singh Case (Supra), Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employ the workman. The only remedy left is to compensate the workman in term of money.

27. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

- i. Work charged employee who has completed 5 years of service shall be entitled for Rs.50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.
- ii. Work charged employee who has completed less than 5 years but more than 1 year would be entitled Rs.25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.
- iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

The present work charged workman was employed on 06.06.1969 and was retrenched on 30.03.1984 as mentioned in Discharge Certificate (Ex.W-1) issued by Sub Divisional Officer, BBMB Sundernagar, and has worked for 14 years and about 9 months (more than 5 years) so he is entitled of Rs.50,000/- along with interest @9% per annum from the date of moving the application till its realization.

28. The reference is answered accordingly and stands disposed off.

29. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2024

का.आ. 2040.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, हैदराबाद के पंचाट (पहचान संख्या 22/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/10/2024 को प्राप्त हुआ था।

[सं. एल -22013/01/2024-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 14th October, 2024

S.O. 2040.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 22/2019**) of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.Ltd.** and their workmen, received by the Central Government on **10/10/2024**.

[No. L-22013/01/2024 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE
IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 27th day of September, 2024

INDUSTRIAL DISPUTE L.C.No. 22/2019

Between:

Sri G.K. Sampath Kumar,

S/o Late G. Sanjeeva Rao,

R/o DA.18, Opp. To Head Office,

Kothagudem, Khammam District.

..

....Petitioner

AND

1. The Chairman & Managing Director,
M/s. Singareni Collieries Company Ltd.,
Kothagudem.
2. The Director (PA & W),
M/s. Singareni Collieries Company Ltd.,
Kothagudem.
3. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Bellampally, Adilabad Dist..

...

.Respondent s

Appearances:

For the Petitioner : Party in Person

For the Respondent : Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri G.K. Sampath Kumar who worked as Sr. Asst. Superintendent (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondent s M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding dated 25.12.2018 issued by Respondent as illegal, arbitrary and to set aside the same consequently directing the Respondent s to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

It is to submit that, the Respondent conducted enquiry proceedings on vide Ref.No.BPA/PER/12641 dated 10.03.2015 by issuing a charge sheet cum suspension order alleging that the Petitioner was transferred to Bellampalli Area and he has not joined in the above said area as per the directions of the Respondent company and the 2nd Charge leveled against him is that he is having huge amounts in his bank accounts and it comes under violation of the standing orders of the 1st Respondent Company. It is submitted that, he has submitted his detailed explanation and enquiry proceedings are concluded and during enquiry proceedings the Respondent produced the statements of alleged effected transfer employees and Petitioner has insisted the Presenting Officer for furnishing the details of transfer applications of the employees, approved note copies and also transfer orders. Enquiry was commenced on 11.01.2016 and the Respondent assured to furnish the details pertaining to transfer orders along with approved note copies. It is submitted that, he challenged the action of the Respondent s in suspending him without issuance of notice when he was sick and no transfer orders were served on him. Petitioner filed a Writ Petition by challenging the action of the Respondent s against issuance of Charge sheet cum suspension order and the Hon'ble High Court was pleased to observe in WP.No.7463 of 2015 that at the time of suspension he was under sick with the knowledge of the Respondent Company and further observed that his sickness continued and the said Writ Petition was pending before the Hon'ble Court. It is submitted that on 22.02.2016 he has applied for the information from the

3rd Respondent pertaining to the transfer applications, approved note copies and transfer orders of the employees as alleged by the Presenting Officer against him and the said information was not given by the authorities and then Petitioner filed an appeal on 23.03.2016, but in vain. On 12.04.2016 he applied to the Andhra Pradesh Information Commission against the Respondent No. 1 to 3 and the same was numbered as Appeal No. 19686/SIC-DR.IA/20 16 and on enquiry the Hon'ble Commission directed the Respondent Nos.1 to 3 to furnish information by an order dated 01.09.2016. It is submitted that, the Respondent Company initiated enquiry proceedings against him with a complaint lodged with the Anti Corruption Bureau on 30.08.2015 by requesting them to enquire him on the issues of transfer and posting of the staff and medical invalidation of the employees from the period of 2009 to 2014 and accordingly the ACB sought information from the 3rd Respondent. It is submitted that, in those circumstances he approached the Hon'ble High Court by way of filing a Writ Petition No.39324 of 2016 by challenging the Respondent's inaction in not submitting the transfer applications during the enquiry proceedings and the Respondent s filed their counter and the Writ Petition was disposed by the Hon'ble Court on 27.02.2017 by directing the Respondents to permit him to see and note down the alleged transfers applications during the enquiry proceedings and after that the Respondents permitted him to note down the contents of the documents. It is submitted that, on 04.01.2018 he asked the presenting officer with regarding the second charge of huge amounts lying in his bank accounts and asked them to provide him preliminary enquiry report in connection with the second charge and the presenting officer categorically stated that no preliminary enquiry report has been provided to them by the concerned department against his request. Earlier also he applied to the General Manager, Bellampalli to furnish the particulars of the second charge. It is submitted that, General Manager issued a letter to the 3rd Respondent dated 11.03.2015 requesting him to produce the relevant documents pertaining to second charge and he also applied to the public information officer under RTI Act and the Public Information Officer under RTI Act gave certain information that a preliminary enquiry was conducted on his second charge i.e., on 23.02.2012 and on 21.11.2017 the Public Information Officer denied to submit that report which is stated that exempted from disclosure under 8 (1) (g) of RTI Act, 2005. It is submitted that, with regard to the second charge the Respondents intention is to fix him by stating that he is having huge amounts in his bank account from the years 2004 to 2011 by way of taking money in the name of transfer of employees from one place to another and the Respondents are not providing the alleged transfers filed and Respondents are not submitting the preliminary enquiry report dated 23.02.2012 and during the enquiry proceedings also the presenting officer categorically admitted that the preliminary enquiry report was not produced by the Respondents. It is submitted that without any valid ground Respondents have framed the second charge against Petitioner. It is submitted that, the Respondents No. 1 to 3 ought to have given the information pertaining to the charges framed against him but the Respondents without furnishing information to him and to proceed against him with an evil motive and also initiated criminal proceedings by way of filing complaints to the ACB on 30.05.2015. It is submitted that Petitioner has challenged the enquiry proceedings of the Respondents before this Hon'ble Court vide W.P. No. 1535 of 2018 and Hon'ble court was pleased to observe, permitted to withdraw the writ petition filed by him with liberty to assail any adverse order that may be passed against him to challenge the same before the Hon'ble High Court. It is submitted that the office of the 3rd Respondent issued a letter No.BPA/PER/EO/3109 dt.12.12.2018 a 2nd show cause notice along with enquiry report and stated that the allegations against him in the enquiry report by the Presenting Officer are proved as per the charge sheet No.BPA/PER/12/641 dt.10-03-2015 under Respondents company standing order No.25 (3), 25 (23), 25 (31) & 25 (1) for willful insubordination, absence from duty, deliberate Act which is subversive of discipline and theft, fraud or dishonesty. It is submitted that, from the enquiry report it is clear that the Respondents have influenced the enquiry officer though there is ample evidence to disprove the charges leveled against him more particularly with regard to charge No.1. The enquiry report itself clearly say that the transfer order was served him on 2.7.2015 and prior to that Petitioner was sick which was admitted by the Presenting Officer in the enquiry. It was declared as charge No.1 was proved and the same is illegal and against to the principles of natural justice. It is submitted that, the Presenting Officer without furnishing the preliminary report of charges against him initiated and concluded the enquiry proceeding. It is submitted that, as per the enquiry report the Respondents and the enquiry officer exceeding their limits though it is not under the preview of the standing orders of theft fraud, dishonesty and as per the Respondent company standing orders, in Petitioner's case he has not made theft of any amounts nor fraud of any amounts of the Company at any point of time with the business of Respondent company or its property and the entire enquiry proceeding is void ab initio. It is submitted that, Petitioner has filed Writ Petition No.45474 of 2018 by challenging the action of the Respondent by initiating disciplinary proceedings with a vindictive mode and Hon'ble Court opined that his Writ Petition is premature stage and permitted to withdraw his writ petition. It is submitted that, on 25.12.2018 2nd Respondent passed an order of dismissal, in view of standing order No.25 (1) and 25 (31) of Respondent Company and dismissed the Petitioner from the rolls of the Respondent Company. The Respondent Company immediately without waiting for the remedies leftover to him as per the Standing Order, more particularly right of Appeal and Right of Review are not exhausted, initiated eviction proceedings against him for the quarter allotted to him at Kothagudem. It is submitted that under Telangana Public Premises Eviction Act, Petitioner filed WP.No.1170 of 2019 and orders passed directing the Respondent authorities not to proceed till the exhaust of Appeal provisions as per the Standing Orders of the Respondent Company. Further the Respondent Company initiated Criminal Proceedings through ACB by way of registering the crime and sought information and the investigation is pending before the ACB on the same line of enquiry. It is further submitted that, accordingly on 04.02.2019 he filed an appeal to 1st Respondent against the orders of the 2nd Respondent. Thereafter

the Respondent Company foisted false Criminal Complaint before the ACB authorities though another case is pending before the authorities and after dismissal of services of the Respondent Company on 31.12.2018 registered a crime No.1 of 2019 and arrested him on 06.02.2019 and thereafter he obtained bail from the Hon'ble ACB Court, Hyderabad. It is submitted that Respondent Company on 21.03.2019 dismissed his appeal by confirming the orders of the 2nd Respondent. It is submitted that the action of the Respondent No.1 and 2 in awarding punishment of dismissal from the Respondent Company is illegal and violation of the Principles of equity and the dismissal order passed by the Respondent s is discrimination against him. It is submitted that, the Petitioner is a workman and not in Executive cadre and the wages are given to the Petitioner as per the National Coal Wages Agreement. Accordingly this Tribunal having jurisdiction to entertain the dispute of dismissal between the Petitioner and Respondents. It is prayed to declare the impugned office Proceedings No.CMD/PS/IR/APP/116 dated 21.03.2019 and BPA/PER/129/3502 dated 25.12.2018 issued by the Respondent No.1 and 2 as illegal and consequently direct the Respondent s to re-instate the Petitioner into service duly granting all other consequential benefits, such as continuity of service, back wages and all other attendant benefits etc..

3. The Respondent s filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

It is submitted that the present petition has been filed by the Petitioner Sri G.K. Sampath Kumar. It is submitted that he was transferred to Bellampalli Area from Kothagudem Area on administrative grounds vide Office Order No. CRP/PER.IRPM/3208/329 dated 30.01.2015 with an advise to report to General Manager, Bellampally Area on 02.02.2015 but Petitioner did not report and remained absent for duties without sanctioned leave. It was reported that Petitioner had huge amounts lying in his bank accounts which are disproportionate to his known source of income. Therefore the Petitioner was charged for misconduct under Company standing orders No. 25(3), 25(23), 25(31) and 25(1) and the Petitioner was issued charge sheet vide BPA/PER /12/641, dated 10.03.2015 suspending him for duties with effect from 10.03.2015 with pending enquiry. The relevant extract of the charges leveled are as follows:

01. You were transferred on administrative grounds to work at Bellampalli Area vide GM(P)/IR&PM Office OrderNo.CRP/PER/ TRPM/ 3208/ 329, dt.30.01.2015 with an advise to report to the undersigned for work and placement with immediate effect. Accordingly, you were relieved vide DGM(E&M)Area Stores, Kothagudem Area Lr.No.KGM/AST/38/2014 15/2160, dt.31.01.2015 with immediate effect i.e., from 31.01.2015 after office hours.

As per the above orders, you were required to report to the office of the undersigned on 02.02.2015 after availing play day on 01.02.2015. However, it is found that so far you have not reported at the office of the undersigned for duty in compliance with the above cited administrative office orders and remained absent without sanctioned leave.

02. Further, it is reported that prima facie you have huge amounts lying in your Bank accounts which are disproportionate to your known source of income. The above acts of yours amount to misconduct under company's Standing Orders.

The extract of acts of misconduct as per standing orders of Respondent Company as follows:

25(1): Theft, fraud or dishonest in connection with the employer's business or property

25(3): Willful insubordination or disobedience, whether alone or in conjunction with another or others of any lawful or reasonable order of a superior

25(23): Any willful and deliberate act which is subversive of discipline or which may be detrimental to the interest of the company.

25(31): Absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave.

It is submitted that the Petitioner was given full & fair opportunity to defend himself during the enquiry on the charges levelled against him. The Disciplinary proceedings were conducted duly following the principles of natural justice with all documentary evidence relevant to the charges framed against him. It is submitted that all the documents that are relevant to the domestic enquiry on the subject referred were handed over to the Petitioner. It is submitted that the Petitioner was made unfit for duty on 31/1/2015 for the compliant of loose motions. He was referred to main hospital for non relief of complaint on 17/2/2015. But on examination by special doctor he was found fit for duty on 17/2/2015 and the same was communicated to the Petitioner. Petitioner was on sick rolls up to 17.02.2015 as he was suffered from loose motions and lower back ache. It is submitted that Petitioner was referred to Respondent Company Main Hospital, Kothagudem where he was examined by specialist doctors who found him fit for duty. It is submitted that he had again submitted another application for extension of sick leave from 21.02.2015 onwards, which was not granted as he was declared fit for duty and as Petitioner was not attending duties from 17.02.2015 onwards with out any sanctioned leave and permission, he was served with Charge Sheet cum Suspension pending enquiry on 10.03.2015. It is submitted that questioning the suspension order Petitioner filed WP No. 7463 of 2015 praying the Hon'ble High court to issue an order, writ or direction more particularly in the nature of

writ of mandamus declaring the charge sheet cum suspension order issued by the Respondent company vide Proc.Ref.No. BPA/PER/12/641 dated 10.03.2015 by suspending the Petitioner from the service with immediate effect from 10.03.2015 pending enquiry as illegal, arbitrary and violative of Article 14,19(1)(g) and 21 of the constitution of India by declaring the same as unconstitutional and violative of principles of natural justice and fundamental rights guaranteed under the constitution of India. It is submitted that the Respondents filed counter denying the allegations made by the Petitioner in Writ Petition No.7463 of 2015 and same is still pending before Hon'ble High Court. It is submitted that during the course of enquiry into charge sheet on 04.07.2016, the Petitioner requested Presenting officer to provide transfer applications and approved note coppices and recommendation letters made by Petitioner in respect of Witnesses/employees which were confidential, hence his request was rejected due to administrative reasons. It is submitted that, it is true that the Respondent Company lodged a complaint with ACB against the Petitioner for his corrupted actions during the period from 2009 to 2014. It is further submitted that, it is true, the Respondent Company has filed WP 36546 of 2016 against the orders of Hon'ble Andhra Pradesh Information Commission and the Hon'ble High Court was pleased to suspend the orders of Hon'ble Andhra Pradesh Information Commission and same is pending before Hon'ble High Court. It is submitted that during the course of enquiry into charge sheet on 04.07.2016, the Petitioner was permitted to cross examine the Presenting Officer and the Petitioner requested Presenting officer to provide transfer applications and approved note copies and recommendation letters made by Petitioner in respect of Witness's/employees. As those documents are confidential, hence his request was rejected due to administrative reasons. It is submitted that the Petitioner approached Hon'ble High Court for the State of Telangana and Andhra Pradesh and filed Writ Petition No. 39324 of 2016 questioning the action of Respondent Company in not furnishing the copies of Transfer applications of Employees/ Witnesses as sought by him during the enquiry proceedings and disposed of with the following direction:

" Enquiry officer shall permit the Petitioner to peruse those documents and allow him to make notes of the contents of documents. However, Petitioner that not indulges in tampering of the documents of taking photographs of the documents and only notes of the contents of the documents to enable him to make submissions to support his defense. After the documents are perused, the Enquiry officer may proceed further in the enquiry."

It is submitted that accordingly, the Petitioner was provided with the documents. It is submitted that Respondent Company has lodged a criminal complaint with ACB, against the Petitioner for his corrupted actions. It is further submitted that the Petitioner filed Writ Petition No. 1535 of 2018 against the Respondent Company for not furnishing the information pertaining to Second Charge framed against Petitioner in Charge sheet No. BPA/PER/12/641, dated 10.03.2015. It is submitted that Petitioner himself sought permission from Hon'ble High Court to withdraw the Writ Petition and the High Court was pleased to dismiss the Writ Petition as withdrawn by granting liberty to the Petitioner by its order dated: 22/01/2018. It is submitted that the Disciplinary Proceedings were conducted on 23.04.2015 and on subsequent dates as noted in the enquiry report. It is submitted that the Petitioner was present and the enquiry was conducted by duly following the principles of natural justice. The Petitioner was explained the charges leveled against in the language understood by him. The competent authority decided to place under suspension with effect from 10.03.2015 pending enquiry as the acts of misconduct by the Petitioner are grave and serious nature, he was placed under suspension with effect from 10.03.2015 pending enquiry and being paid subsistence allowance as per rules in vogue. The Petitioner acknowledged the receipt of the charge sheet and submitted his explanation, which was considered to be not satisfactory. Though opportunity was given by the Enquiry Officer during enquiry proceeding, the charge sheeted employee has not chosen to avail any defense assistant during the course of enquiry. The enquiry was conducted by giving full and fair opportunity to Petitioner/ charge sheeted employee. The Petitioner cross examined the Presenting Officer on the charges levied against him. The Enquiry Officer submitted the enquiry report holding the Petitioner partially guilty of misconduct under 25(1) and guilty of 25(3 1) of the Company's Standing Orders. After thorough enquiry into the charges levelled against the Petitioner and on perusal of the evidence furnished by him, the competent authority concluded that the presenting Officer has established/proved the charges leveled against charge sheeted employee beyond reasonable doubt. A copy of the Enquiry Proceedings and Enquiry Report submitted by the Enquiry Officer was sent to the Petitioner vide Ref. No. BPA/PER/EO/3109 dated 15.11.2018 giving him a fair opportunity to represent against the same. The Petitioner submitted his explanation dated 26.11.2018, the contentions raised by the charge sheeted employee in his representation were examined and all relevant reports, holding the Petitioner guilty of misconduct leveled against him under Company Standing Order No 25(1) is partially proved and 25(31) is proved, the competent authority held that "as there are no merits in the representation of Sri GK Sampath Kumar the findings of the Enquiry Officer holding Sri GK Sampath Kumar guilty of the charges under Company Standing Orders 25(1) and 25(31) are hereby confirmed". Therefore in exercise of the powers conferred under Company Standing Order No. 26(H), the competent authority decided to impose a penalty of "Dismissal from the services of the Company". The Petitioner was communicated about the penalty of dismissal from services imposed on him vide Ref.No. BPA/PER/129/3502 dated 25.12.2018 and informed that if he desires to prefer an Appeal within 45 days he can apply. It is submitted that Petitioner preferred an appeal against the order of dismissal from services imposed on him by the competent authority and the appellate authority after going through the past record of the Petitioner found that there are no extenuating circumstances to set aside the penalty of dismissal from the company services as such confirmed the penalty of dismissal imposed by the competent authority. It is submitted that the Petitioner filed Writ Petition No. 1535 of 2018

against Respondent Company for not furnishing the information pertaining to Second Charge framed against Petitioner in Charge sheet No. BPA/PER/12/641, dated 10.03.2015 and the High Court was pleased to dismiss the Writ Petition as withdrawn by granting liberty to the Petitioner by its order. It is submitted that, it is true that, as per enquiry procedure, on completion of enquiry proceedings. From the above it is evident that the Petitioner is a litigant person and is habituated to file frivolous petitions against the Respondent company and further he himself is withdrawing the same for the reasons best known to him. It is submitted that the General Manager (Personnel), Welfare & CSR served a letter to Petitioner vide No. CRP/PER/WEL/5031, dated: 20.12.2018 stating that in spite of lapse of 3 years 10 months from the date of transfer, the Petitioner failed to surrender/vacate the Quarter No. DA-18 allotted at Kothagudem to Company and directed Petitioner to vacate the said Quarter on or before 28.12.2018 failing which, the eviction proceedings will be initiated against Petitioner as per the Telangana Public Premises (Eviction and Unauthorized Occupations) Act, 1968. It is further submitted that, the Petitioner was dismissed from company service Respondent Company Service with effect from 26. 12.2018. Form-A notice under Section 4 of the Telangana Public Premises (Eviction and Unauthorized Occupations) Act, 1968 has been served to the Petitioner on 09.01.2019 to show cause (Eviction and Unauthorized Occupations) Act, 1968 as to why he should not be evicted from Respondent Company Quarter No. DA 18, Kothagudem. In response to the letter dated: 26. 12.2018, the Petitioner submitted reply. It is further submitted that the Appellate Authority examined Petitioner Appeal dated 26.11.2018, and confirmed dismissal of the Petitioner vide proceeding of C&MD of the Respondent Company, CMDPS/IR/APP/16 Dated 21.03.2019. After disposal of Appeal before Appellate Authority, the Eviction Order dated 30.03.2019 was served to the Petitioner and the Petitioner vacated the Quarter No. DA-18 at Kothagudem on 05.04.2019. Further the Respondent Company lodged a complaint against Petitioner with ACB. It is submitted that the allegations made by the Petitioner are not true and correct, because different Disciplinary Authorities and Appellate Authorities are laid down for different grades of employees for their misconduct. The Disciplinary Authority in the instant case is Director (PA&W), as the Petitioner is in A-Grade, the Disciplinary Authority for Grade-A employees is Director (PA&W) and Appellate Authority is C&MD of Respondent Company. There is no discrimination or violation of principles and natural justice, in conducting enquiry, decision of Disciplinary Authority or Appellate Authority. It is submitted that the Respondent Company imposed dismissal from service as per clause No.26 of Respondent Company Standing orders. It is submitted that the inquiry was conducted on four charges leveled against the Petitioner on different dates and venues by following all the procedures laid down, wherein Petitioner given full and fair opportunity to the Petitioner to defend himself and on proved charges the punishment of dismissal was imposed on the Petitioner after completion of enquiry. It is therefore prayed to dismiss the petition filed by the Petitioner.

4. On the basis of rival pleadings the following points emerge for determination:-

- I. Whether the departmental enquiry held against the Petitioner is legal and valid?
- II. Whether the action of the Respondent management in terminating the services of the Petitioner vide office proceeding dated 21.3.2019 and proceedings dated 25.12.2018 is justified?
- III. To what relief, if any, the Petitioner is entitled for?

Both parties have filed written submissions.

Findings:-

5. Point No.I:- The departmental enquiry held against the Petitioner has been held legal and valid vide order dated 9.8.2023.

This point is answered accordingly.

6. Point No.II:- Petitioner in the present case has challenged the impugned order proceedings dated 21.3.2019 and dismissal order dated 25.12.2018 issued by the Respondent No.1 and Respondent No.2, respectively, on the grounds mentioned in his petition, first and foremost plea of the Petitioner is that the Respondent has conducted the preliminary enquiry regarding second charge before Departmental Enquiry the report of preliminary enquiry was not provided to him despite his request and on this ground the dismissal order is illegal.

7. Admittedly Petitioner was dismissed from service vide office order dated 25.12.2018 of Respondent for misconduct under Standing Order No.25.1 and 25.31 of the Respondent company. The main object of conducting preliminary enquiry against the employee is to ascertain the availability of substantial evidence which will sustain a departmental enquiry or disciplinary proceedings or registration of regular case as the case may be. Before initiation of the departmental enquiry the Disciplinary Authority embarked upon to ascertain the availability of substantial evidence against the delinquent in the matter and on the basis of report of preliminary inquiry, the Disciplinary Authority proceeds to form opinion so as to whether disciplinary proceedings, against the delinquent employee should be initiated or not. Thus, the preliminary enquiry report is meant for the satisfaction of the Disciplinary Authority. The report of preliminary enquiry is not to be furnished to the delinquent employee until it is used in Disciplinary Proceeding as evidence. Thus, in the present matter, Disciplinary Authority on the basis of report of preliminary enquiry has formed the opinion that the charge sheet to be served on delinquent employee and the same has been served. The record of enquiry proceeding also goes to reveal that CSE was provided reasonable sufficient

fair hearing opportunity during the enquiry proceeding. Moreover, Departmental Enquiry has already been held legal and valid in the present matter. Therefore, said plea of the Petitioner is not tenable.

8. Further, the record of enquiry proceedings, enquiry report as well as order dated 25.12.2018 of the Disciplinary Authority, Director (PA&W) of Singareni Collieries, Kothagudem, goes to show that the Petitioner has been found guilty of the charge under Company's Standing Orders No.25.1 and 25.31. and consequently on the basis of Enquiry Report Respondent Disciplinary Authority has passed dismissal order of Petitioner from service vide order dated 25.12.2018.

The Company Standing Order No.25.1 describe misconduct as below:-

“Theft, fraud or dishonest in connection with the employer's business or property.”

Standing Order 25.31 reads as follows:-

“Absence from duty without sanction or sufficient cause or overstaying beyond sanctioned leave.”

As regards charge under Standing Order No.25.31, Petitioner submitted that it can be seen from the enquiry report that the Respondents has influenced the Enquiry Officer and there is ample evidence to disprove the charges levelled against Petitioner, more particularly with regard to charge No.1, further it is submitted that the enquiry report itself clearly says that transfer order was served him on 2.7.2015 and prior to that he was under sick and same was admitted by the Presenting Officer and the Enquiry officer as it was declared as charge No.1 is proved and the same is against the principles of natural justice and other judgments rendered by this Hon'ble Court and other courts.

9. Per Contra, Respondent contended that Petitioner was made unfit for duty on 31.1.2015 on the complaint of loose motions. He was referred to Main Hospital on of complaint of illness on 17.2.2015, but on examination by specialist Doctor, he was found fit for duty on 17.2.2015 and same was communicated to the Petitioner. Further, it is submitted that Petitioner was on sick rolls upto 17.2.2015 as he suffered from loose motions and low back ache. Respondent submitted that Petitioner was referred to the Respondent Company's Main Hospital, Kothagudem, where he was examined by specialist Doctors who found him fit for duty. Further, it is submitted that he had again submitted another application for extension of sick leave from 21.2.2015 onwards, which was not granted as he was declared fit for duty. Respondent submits that Petitioner was not attending duties from 17.2.2015 without any sanctioned leave and permission, therefore, he was served with chargesheet cum suspension order pending enquiry on 10.3.2015. Further, it is submitted that questioning the suspension order Petitioner filed Writ Petition No.7463 of 2015 praying the Hon'ble High Court to issue an order/direction more particularly in the nature of writ of mandamus declaring the chargesheet cum suspension order issued by the Respondent company vide proceeding No. BPA/ PER/12/641 dated 10.3.2015 by suspending the Petitioner from the service with immediate effect from 10.3.2015 pending enquiry as illegal and arbitrary. Further, it is submitted that Respondent has filed the counter denying the allegations made in the writ petition and the same is still pending before the Hon'ble High Court.

10. The perusal of record reveals that Petitioner was on sick rolls upto 17.2.2015 and thereafter he was examined by specialist Doctor of Respondent Hospital and he was found fit for duty. Despite being found fit for duty he did not join duty and moved an application for extension of sick leave from 21.2.2015. As Petitioner was found fit for duty on medical examination, his application for sick leave was not granted. Despite it, Petitioner remained absent from duty without sanction of leave after 17.2.2015 and onwards. However, Petitioner failed to produce any explanation or evidence to justify his absence from duty for the alleged said period. Thus, he remained absent from duty without sanction or sufficient cause and over staying beyond sanctioned leave. Therefore, he was rightly held guilty of charge of absence from duty as overstayed beyond sanctioned leave under Standing Order No.25.31 of the Company.

11. However, procedure for applying sick leave by an employee of the Company is provided under Company's Standing Order that the sick leave shall be granted subject to production of “fit” and “unfit” certificate. If the Colliery Medical Officer is not available at the company hospital/dispensary, the medical certificate issued by the Coal Mines Welfare Association or by any Registered Medical Practitioner can be entertained. Further, it is provided that the sick leave of the employee shall be granted subject to acceptance of this certificate, so produced and the employees fitness. But in the present matter, Petitioner was found fit for duty on medical examination and he failed to produce any unfit certificate obtained from Colliery Medical Officer for sanction of extended sick leave from 21.2.2015 to 10.3.2015. Therefore, in the absence of such unfit certificate, Petitioner was not entitled for extended sick leave, from 21.2.2015 onwards. As Petitioner did not join his duty after 17.2.2015, hence, he was treated as absent from duty without any reasonable cause. Therefore, he was rightly held guilty of charge of absence from duty without any reasonable cause.

12. Secondly, Petitioner was held guilty of charge under Standing Order No.25.1 of the Company. In this context, Respondent contended that Respondent made a complaint with ACB against the Petitioner for his corrupt actions. Petitioner has taken the plea that the Respondent has intentionally fixed him by stating that the Petitioner is having the huge amount in his bank account from 2004 to 2011 by way of taking money in the name of transfer of employees from one place to another and Respondent has not provided the alleged transfers file. Petitioner has also submitted that he was not connected with alleged transfer in any manner and Respondent failed to prove the charges against

him that he collected huge amount in the name of transfers of employees. Further, Petitioner submitted that the Respondent without any valid ground have framed second charge against the Petitioner. Further, it is submitted that Respondent and inquiry officer has exceeded their limit that it is not under the purview of the fraud, dishonesty as per the Respondent's company Standing Orders. Further, Petitioner submitted that he has not committed any theft of any amounts whatsoever in nature and nor committed any fraud of any amount of the company at any point of time or caused any loss to the Respondent company or its property. Petitioner submits that enquiry proceedings pertaining to the charge under Standing Order No.25.1 is void abinitio.

13. In view of the above submissions made by Petitioner, perused the record of the enquiry proceeding. The record of enquiry proceeding reveals that charge sheeted employee has admitted the receipt of the money of Rs.50,000/- from each of the employees totalling to Rs.3,00,000/- in his SB account No.6360 and counter foils has also been submitted by CSE. Further, from the record of Enquiry it is established that MW1, MW7 (management witnesses) have paid money into CSE's SB account No. 6360 and CSE was involved in unethical ways of collecting money on the pretext of arranging transfers to the employees. Further, Enquiry report reflects that MW1 to MW6 have relationship or contacts with CSE. Further, MW1 has stated that they have paid money to CSE without any guarantee like promissory note. Whereas, CSE's claim that he had received the amounts as hand loans. Further, CSE has taken the plea that he has received these hand loan amounts from MW1 to MW6 for maintenance of union activities. Under the facts and circumstances of the case the plea of CSE appears unbelievable as all these employees have admitted to have given money as hand loan to CSE. It is utter surprise to one's common sense of prudent man that why each employee will deposit the similar amount of Rs.50,000/- in the Petitioner account. These transactions in the Petitioner's account irresistibly indicates that these amounts were paid to Petitioner for getting transfers of the choice of employees. Further, MW1 to MW6 in the evidence has also proved the fact of receipt of Rs.8,47,644/- by CSE. However, Petitioner submits that he has taken money from his friend Mr. Sekhar from USA and he submitted copies of documents related to money transfer from foreign account to his account No.6360. CSE has also admitted that he has received Rs. 7,74,000/- from INTUC during the year 2007-13 and out of the above amount he has received the amount to the extent of Rs. 3,39,000/- during the year 2004-2011. But, CSE the Petitioner, utterly failed to furnish justifiable explanation in respect of such huge amounts credited into his bank account by the employees of the Company. Although, CSE has submitted documentary proof for receiving the money from LIC (money back policy) to the extent of Rs.1,61,300/- during the year 2004-2011, but regarding rest of the amount credited in his account during the alleged period he failed to furnish plausible explanation. Thus, as per record there is ample documentary evidence of money transaction in the bank account of the Petitioner during alleged period which is disproportionate to his known source of income and for which Petitioner failed to furnish explanation. However, Petitioner being employee of the Respondent company, is duty bound to explain about disproportionate asset/money found in his possession, but failed to do so. Thus, it has been established that the cash deposited in his account was disproportionate to his known sources of income. Now, onus of proof shift upon the CSE to explain how and from whom he has received this amount, as this fact is within the special/specific knowledge of CSE. It is not the case of Petitioner that there is no evidence on record against the CSE to substantiate the charge against him under Standing Order No.25.1. However, Petitioner submits that the charge under clause 25.1 is not proved against him as he has not committed any fraud or dishonesty. On the basis of evidence of passbook and statement of account of Petitioner, it is established that unexplained huge amount was found to be credited in the bank account of Petitioner in the alleged period and that amount was disproportionate to his known source of income. The explanation for the huge amount of deposits in his account has been furnished by the CSE but that was of feeble nature and hence, not acceptable.

14. However, as regards jurisdiction of Tribunal to interfere in the dismissal order of the Petitioner from service passed by the Respondent company, it is settled law that when the enquiry is held, fair and proper against the employee, in the absence of any allegation of victimization or unfair labour practice, the Labour Court has no power to interfere with the punishment imposed. However, Petitioner has not taken the plea and proved that he was victimized by Respondent Management or unfair labour practice was adopted by the Respondent. Hence, no question arises for interference in the dismissal order of Petitioner.

Further, as regards question of punishment, in the case **Karnataka Bank Limited versus A. Mohan Raj, Hon'ble Supreme Court of India** have held that, "Proportionality of the punishment, it is for the disciplinary authority, not for the courts to decide as to which punishment be imposed on a delinquent having admitted the misconduct, hence the interference of High Court was uncalled for."

Further, in the case of **Employers Bokaro Colliery vs. Concerned Workman, the Hon'ble Apex Court** have held,

"In the absence of challenge the validity to the fairness of domestic enquiry, the court should be reluctant either to interfere with the final findings recorded by Enquiry Officer for the punishment awarded by competent Authority."

15. From the perusal of the record of the enquiry proceedings, it reflects that there is ample evidence on record that huge amount was credited in two bank accounts of the Petitioner and that was disproportionate to his known source of income. Petitioner utterly failed to furnish justifiable explanation before authority in this regard hence he

was held guilty of charge under Standing Orders No.25.1 of Company. I am constrained to hold that Petitioner's claim is not a case of no evidence or order of Disciplinary Authority suffers from perversity, hence, I find no reason to interfere in the order of dismissal of pw passed by Disciplinary Authority.

In this context, Hon'ble Supreme Court of India, in the case of **State of Karnataka versus N Ganga Raj in Civil Appeal No.8071 of 2014, date of decision 14th February 2020**, have held,

9. In *B.C. Chaturvedi v. Union of India & Ors.*³, again, a three Judge Bench of this Court has held that power of judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eyes of the court. The Court/Tribunal in its power of judicial review does not act as an appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. It was held as under:

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made.

Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is 3 (1995) 6 SCC 749 entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented. The appellate authority has co-extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In *Union of India v. H.C. Goel* [(1964) 4 SCR 781], this Court held at page 728 that if the conclusion, upon consideration of the evidence, reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.”

11. In *State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya* 5, this Court held that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be ground for interfering with the findings in departmental enquiries. The Court held as under:

Supreme Court have held that, “Once the evidence has been accepted, the departmental enquiry in exercise of the power of jurisdiction the tribunal or the High Court could not interfere with the finding of these facts regarding by re-appreciating the evidence as if the courts are the appellate authority.”

Similarly, in the present matter also Enquiry was held by competent authority following principles of natural justice.

Further, in the case of **B.C. Chaturvedi vrs. Union of India, 1996 (72) FLR 3166** the Hon'ble Supreme Court while hearing the case of assets found in possession of employee that was disproportionate to his known source of income have held:-

It is true that a three-judge Bench of this Court in *Krishanand*'s case (supra) held in para 33, that if the excess was comparatively small (it was less than 10% of the total income *in that case*), it would be right to hold that the assets found in the possession of the accused were not disproportionate to his known source of income raising the presumption under sub-section (3) of [Section 5](#). It is to be remembered that the said principle was evolved by this Court to give benefit of doubt, due to inflationary trend in the appreciation of the value of the assets. The benefit thereof appears to be the maximum. The reason being that if the percentage begins to rise in each case, it gets extended till it reaches the level of incredulity to give the benefit of doubt. It would, therefore, be inappropriate, indeed undesirable, to extend the principle of deduction beyond 10% in calculating disproportionate assets of a delinquent officer.

A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate

authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases impose appropriate punishment with cogent reasons in support thereof.

Hence, in the present matter, CSE was found in possession of huge amount of money in his two bank accounts and no plausible explanation has been furnished by the CSE. Thus, amount deposited into the account of CSE in cash was disproportionate to his known source of income. Therefore, he was rightly held guilty of dishonesty under Standing Orders No.25.1 of Company and consequently was dismissed from service. Thus, the order of dismissal of Petitioner passed by Respondent is not of such nature to shake the conscious of court.

16. On going through record of enquiry proceeding following facts are unequivocally established regarding charge under Clause 25.1 of Standing Orders

A) Petitioner was charge sheeted for committed misconduct under clause 25.1 of Company's Standing Orders.

B) That he was found in possession of huge amounts which were lying in his bank SB account No. 125401000006360 for the period from April 2004 to December 2011, wherein salary related income of CSE was credited along with the interest on the outstanding balances and also unexplained other cash deposits. As per record, a total of Rs.90,97,876/- was credited into the bank account of CSE during the period from April, 2004 to December, 2011. Out of this, total amount of Rs.17,20,494/- was credited towards salary, bonus, exgracia, incentive, festival advance and interest. The balance amount of Rs.73,77,382/- was credited in the CSE account mostly in the form of cash deposits apart from deposits through cheques. Whereas, this account of CSE was having an opening balance of Rs.31,641/- as on 1.4.2004. Petitioner failed to explain and account for such disproportionate amount credited in his account in cash during alleged period apart from salary.

C) Further, in the second account No. 1254010000240434 with IOB, SCHO branch Kothagudem, of CSE an amount of Rs.26,55,321/- was deposited during the period March 2007 to September 2011. As on 1.3.2007 there was no opening balance in this bank account. This amount was also not explained by the CSE and hence, it was also found disproportionate to his known source of income. Admittedly, most of the amount was credited into the Petitioner's account through cash deposits. The defence witnesses have admitted the fact that they have deposited the cash amount of Rs.50,000/- each into the account of the Petitioner. Thus, plea of giving hand loan amount to Petitioner is not found plausible.

17. Thus, the document on record goes to reveal that the balance of Rs.73,77,382/- in SB account of the Petitioner and Rs.26,55,321/- in other account of the Petitioner was undisputedly found disproportionate to his known source of income, i.e., salary income. Therefore, Enquiry Officer has rightly come to the conclusion that huge amount deposited in his bank account was disproportionate to the known source of income of Petitioner. As the Petitioner failed to furnish plausible explanation regarding said disproportionate asset of amount deposited in his two bank accounts, irresistibly it can be concluded that these amounts were obtained by Petitioner by dishonest means and he was rightly held guilty under Standing Orders No.25.1.

18. Once the fact of disproportionate asset to the known source of income of Petitioner has been proved, now the onus of proof is shifted upon the Petitioner to explain the circumstances, how and under what circumstances such huge amount in cash was credited into this bank account. Section 106 of the Indian Evidence Act provides that when any fact is specially within the knowledge of any person, the burden of proving that fact is upon him. But CSE/ Petitioner failed to discharge his burden of proof by his defence evidence in this regard. Therefore, in view of the above, CSE was rightly held guilty of charge of possessing huge amount in his two bank accounts, that was disproportionate to his known source of income. As regards plea of the Petitioner that there is no sufficient evidence on record to prove charge against Petitioner, it is settled law that sufficiency of evidence is not required in the Departmental Enquiry and mere preponderance of probability is required to prove charge against CSE. Hence, plea of Petitioner in this regard is untenable.

19. Although, Petitioner has submitted that Respondent did not examine any witness in the enquiry in support of charge and has submitted only copy of statement of witness. The record of enquiry proceeding goes to show that the charge under clause 25.1 of dishonest misconduct of charge sheeted employee was based on the basis of documentary evidence i.e., statement of two bank accounts of Petitioner and these statements of account have been submitted and admitted by CSE himself. It is settled law that the facts admitted need not to be proved. Hence, the examination of witness as oral evidence was not necessary in the present matter. There is ample documentary evidence on record to support the charge against CSE. Therefore, I find no force in the argument of CSE. The said plea of the Petitioner is untenable.

20. Therefore, in view of the fore gone discussion and law laid down by the Hon'ble Apex Court as discussed above, I am of the considered view that there is no occasion to interfere in the finding of the Enquiry Officer as well as the order of dismissal passed by Respondent Disciplinary Authority for committing misconduct by Petitioner under clause 25.1 and clause 25.3 of the Company's Standing Orders. Therefore, the action of the Respondent in terminating the services of the Petitioner is held legal and justified.

This Point is answered accordingly.

21. Point No.III:- In view of the fore gone discussion and finding given at Points No.I & II, the Petitioner is not entitled for any relief and petition is liable to be dismissed as being unfounded.

Thus, Point No.III is answered accordingly.

AWARD

In view of the fore gone discussion and finding at Points No. I & II, I am of the considered view that the action of the Respondent in terminating the services of the Petitioner Sri G. Sampath Kumar, Sr. Asst. Superintendent vide office proceeding dated 21.3.2019 and proceedings dated 25.12.2018 is held legal and justified. Hence, the Petitioner is not entitled to any relief as prayed for. As such, the petition filed by the Petitioner deserves to be dismissed as devoid of merits and hence the petition stands dismissed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 27th day of September, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the

Petitioner

NIL

Documents marked for the Petitioner

Witnesses examined for the

Respondent

NIL

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 30 अक्टूबर, 2024

का.आ. 2041.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आयुक्त, पूर्वी दिल्ली नगर निगम, शाहदरा, दिल्ली, के प्रबंधन के संबद्ध नियोजकों और सचिव, एमसीडी जनरल मजदूर यूनियन, शाहजहां रोड, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- 1 नई दिल्ली पंचाट (संदर्भ संख्या 17/2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.10.2024 को प्राप्त हुआ था।

[सं. एल-42011/150/2016-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 30 October, 2024

S.O. 2041.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 17/2019) of the **Central Government Industrial Tribunal cum Labour Court –I New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Commissioner, East Delhi Municipal Corporation, Shahdara, Delhi, and The Secretary, MCD General**

Mazdoor Union, Shahjahan Road, New Delhi,, which was received along with soft copy of the award by the Central Government on 25.10.2024.

[No. L-42011/150/2016-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1,
NEW DELHI.**

ID No. 17/2019

The Secretary,
MCD General Mazdoor Union,
Room No. 95, Barrack No. 1/10, Jamnagar House,
Shahjahan Road,
New Delhi-110011.

Workman...

Versus

The Commissioner,
East Delhi Municipal Corporation,
Udyog Sadan, Near Patparganj, Shahdara,
Delhi-110092.

Management...

AWARD

In the present case, a reference was received from the appropriate Government vide letter No-L-42011/150/2016-IR(DU) dated 17.02.2018 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

“Whether the action of Management of East Delhi Municipal corporation is justified in imposing the penalty of reduction of two stages in time scale of pay for a period of three years along with the effect of postponing future increments imposed upon the disputant workman Sh. Surinder and further the retention of 50% amount during the suspension period wef 15.07.1992 to 18.08.1993 is fair, just & legal? If not, to what benefits the disputant workman is entitled to?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Claim statement was filed on behalf of the claimant.
3. Thereafter, none appeared on behalf of the claimant nor his A/R appeared despite providing a number of opportunities, claimant have not appeared to substantiate his claim.
4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA, Presiding Officer

Date: 17.10.2024

नई दिल्ली, 30 अक्टूबर, 2024

का.आ. 2042.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नगर निगम दिल्ली, 6 मिंगो रोड, नई दिल्ली; मेसर्स बी.वी.जी. इंडिया लिमिटेड, 15 के.जी. मार्ग, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री सुन्दर लाल, कामगार, द्वारा -उपाध्यक्ष, (दिल्ली राज्य एचएमएस), अशोक होटल स्टाफ क्वार्टर, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली पंचाट (संदर्भ संख्या 20/2017) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.10.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-185-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 30th October, 2024

S.O. 2042.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 20/2017) of the **Central Government Industrial Tribunal cum Labour Court –I New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Municipal Corporation Delhi, 6 Minto Road, New Delhi ;M/s B.V.G. India Ltd., 15 K.G. Marg, New Delhi, and Shri Sunder Lal ,Worker ,Through-The Vice President, (Delhi State HMS),Ashok Hotel Staff Qtrs, New Delhi,** which was received along with soft copy of the award by the Central Government on 25.10.2024.

[No. L-42025/07/2024-185-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1
ROOM NO.207, ROUSE AVENUE COURT COMPLEX,
NEW DELHI.

ID No. 20/2017

Shri Sunder Lal S/o Shri Mool Chand,
Through Sh. S.S. Upadhyay, Vice President, (Delhi State HMS),
Qtr. No. C-47, Ashok Hotel Staff Qtrs,
New Delhi-110021

Workman...

Versus

1. Management of MCD Dr. S.P.M. Civic Centre,
6 Minto Road, New Delhi-110002
2. M/s B.V.G. India Ltd.,
106, 1st Floor Mercantile House, 15 K.G. Marg,
New Delhi-110002.

Management...

AWARD

1. This is an application Under Section 2A of the I.D. Act whereby, the applicant made prayer that his termination from the service on 30.12.2015 by the management which be declare illegal and unjustified and he be reinstated with full back wages, it is the case of the applicant/workman that he has been working with the management. He has not been provided any legal facilities. He was illegally terminated from his service on 30.12.2015 without any rhyme or reason and without conducted any domestic enquiry by the management. He has initiated the conciliation proceeding but, no result. Hence, he had filed the present claim petition.

2. Thereafter, none appeared on behalf of the claimant nor his A/R appeared despite providing a number of opportunities, claimant have not appeared to substantiate his claim.

3. Hence, in these circumstances this tribunal has no option except to pass the no dispute award. No dispute award is passed accordingly. File is consigned to the record room. A copy of this award is hereby send to the appropriate government for notification under section 17 of the I.D. Act, 1947.

Justice VIKAS KUNVAR SRIVASTAVA, Presiding Officer

Date: 17.10.2024

नई दिल्ली, 30 अक्टूबर, 2024

का.आ. 2043.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार शाखा प्रबंधक, द्वारा - रिलायंस कॉम लिमिटेड, रिलायंस एचआर सर्विसेज प्राइवेट लिमिटेड, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री कैलाश पांडे, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली पंचाट(संदर्भ संख्या 243/2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.10.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-186-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 30th October, 2024

S.O. 2043.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 243/2015) of the **Central Government Industrial Tribunal cum Labour Court –I New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Branch Manager, Through - Reliance Com. Ltd., Reliance HR Services Private Limited, New Delhi, and Shri Kailash Pandey, Worker**, which was received along with soft copy of the award by the Central Government on 25.10.2024.

[No. L-42025/07/2024-186-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI NO.1 NEW DELHI.

ID.No. 243/2015

Sh. Kailash Pandey,

R/o D-48-B, West Vinod Nagar,

Delhi-110092.

Workman

Versus

Reliance HR Services Private Limited,

Through its Branch Manager, Reliance Com. Ltd.,

Ranjeet Hotel, Turkman Gate,

Near Guru Nanak Hospital,

New Delhi.

Management

AWARD

1. This is an application under Section 2-A of the I.D. Act whereby, the applicant made prayer that his termination from the service on 21.01.2015 by the management which he declared illegal and unjustified and he be reinstated with full back wages. He has not been provided any legal facilities. When the workman went to join his job he was illegally terminated from his service on 21.01.2015 without any rhyme or reason and without conducting any domestic enquiry by the management. He has initiated the conciliation proceeding but, no result. Hence, he had filed the present claim petition.

2. Management appeared and filed the rebuttal written statement. After that, rejoinder was filed and issues were framed. And after that, case was listed for claimant evidence for 22.11.2017. After that, claimant evidence was also filed. And after that, none appeared on behalf of the claimant nor his A/R appeared despite providing a number of opportunities, claimant has not appeared to substantiate his claim.

3. Hence, in these circumstances this tribunal has no option except to pass the no dispute award. No dispute award is passed accordingly. File is consigned to the record room. A copy of this award is hereby sent to the appropriate government for notification under section 17 of the I.D. Act, 1947.

Let a copy of this Award be sent for publication as required under Section 17 of Act.

Justice Vikas Kunvar SRIVASTAVA, Presiding Officer

Date: 17.10.2024

नई दिल्ली, 30 अक्टूबर, 2024

का.आ. 2044.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स मदर डेयरी फ्रूट एंड वेजीटेबल प्राइवेट लिमिटेड, मंगोलपुरी इंडस्ट्रियल एरिया फेज-1, नई दिल्ली; मेसर्स विजय लक्ष्मी मंसोल प्राइवेट लिमिटेड, रोहिणी, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री रमेश एवं 12 अन्य, कर्मचारी, द्वारा -हिंदुस्तान इंजीनियरिंग एवं जनरल मजदूर यूनियन, कर्मपुरा, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली पंचाट (संदर्भ संख्या 49/2023) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.10.2024 को प्राप्त हुआ था।

[सं. एल-42011/52/2022-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 30th October, 2024

S.O. 2044.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 49/2023) of the **Central Government Industrial Tribunal cum Labour Court –I New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Mother Dairy Fruit & Vegetable Pvt. Ltd., Mangolpuri Industrial Area Phase-1, New Delhi ;M/s Vijay Laxmi Mansol Pvt. Ltd., Rohini, New Delhi, and Shri Ramesh & 12 others, Worker, Through- Hindustan Engineering & General Mazdoor Union, Karpura, New Delhi**, which was received along with soft copy of the award by the Central Government on 25.10.2024.

[No. L-42011/52/2022-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI NO.1 NEW DELHI.

ID.No. 49/2023

Sh. Ramesh & 12 others,
 Rept. By Hindustan Engineering & General Mazdoor Union,
 A-193, Karpura, New Delhi-110015.

.....Workman

Versus

1. M/s Mother Dairy Fruit & Vegetable Pvt. Ltd.,
 Mangolpuri Industrial Area Phase-1, New Delhi-110083.
2. M/s Vijay Laxmi Mansol Pvt. Ltd.,
 204-206, Plot No. 3, Garawal Plaza,
 Sector-5, Rohini, New Delhi-110085.

.....Management

AWARD

In the present case, a reference was received from the appropriate Government vide letter No. L-42011/52/2022 (IR(DU)) dated 27/01/2023 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

“Whether claim of Hindustan Engineering and General Mazdoor Union, New Delhi vide letter dated 29.06.2020 in respect of Sh. Ramesh and 11 others (list attached) to the management of M/s Mother Dairy Fruit & Vegetable Pvt. Ltd., New Delhi and M/s Vijay Laxmi Mansol Private Limited, New Delhi for reinstatement, bonus for 3 years and others dues, are proper, legal and justified? If yes, to what relief the disputant is entitled and what direction, if any, is necessary in the matter?”

2. Both parties were put to notice and the claimant filed the claim statement.
3. However, the matter has been amicably settled between the parties.
5. The claimants Sh. Ramesh & others vide separate statement made before this Tribunal on 08.10.2024 stated that he has settled the matter in terms of MOS dated 08.10.2024, which is Ex-C-I, which is duly signed by them with the management in full & final settlement of claims, by way of Cheque drawn on ICICI Bank, as full and final settlement of all their claims, as such, it is held that the claim/ dispute of the workmen/claimants stand finally settled. Settlement of the parties shall form integral part of this Award. Award is passed accordingly.

Let a copy of this Award be sent for publication as required under Section 17 of Act.

Justice VIKAS KUNVAR SRIVASTAVA, Presiding Officer

Date: 17.10.2024.

नई दिल्ली, 30 अक्टूबर, 2024

का.आ. 2045.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक (मानव संसाधन), भारत इलेक्ट्रॉनिक्स लिमिटेड, जालाहाली पोस्ट, बैंगलोर, के प्रबंधन के संबद्ध नियोजकों और महासचिव, भारत इलेक्ट्रॉनिक्स वर्कर्स यूनियन, सीआईटीयू कार्यालय, यशवंतपुर, बैंगलोर, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, बैंगलोर, पंचाट (संदर्भ संख्या **04 of 2022**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 30.10.2024 को प्राप्त हुआ था।

[सं. एल-42012/212/2021-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 30th October, 2024

S.O. 2045.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 04 of 2022) of the **Central Government Industrial Tribunal cum Labour Court, Bangalore** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager (HR), Bharat Electronics Limited, Jalahalli Post, Bangalore, and The General Secretary, Bharat Electronic Workers Union, CITU Office, Yeswanthpur, Bangalore** which was received along with soft copy of the award by the Central Government on 30.10.2024.

[No. L-42012/212/2021-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE, CAMP COURT At HYDERABAD

DATED : 4th OCTOBER 2024

PRESENT : **Shri IRFAN QAMAR**

Presiding Officer

C R No. 04/2022

I Party

General Secretary,
Bharat Electronic Workers Union, CITU
Office, 1st Main Road, Yeswanthpur,
Bangalore – 560 22.

II Party

The General Manager (HR),
Bharat Electronics Limited,
Jalahalli Post,
Bangalore – 560 013.

Appearances

I Party : **Sh. L Muralidhar Peshwa**
State Committee Member

II Party : **None**

1. The Government of India, Ministry of Labour vide order No. L-42011/212/2021-IR(DU) dated 17.01.2022 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as “The Act”) (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

SCHEDULE

“Whether the claim of Bharat Electronics Workers Union vide letter dated 17.8.2017 that the management of Bharat Electronics Limited, Bangalore has unilaterally changed service condition of non-executives and breach of tri-partite settlement without negotiating with the elected members of the union is proper, legal and justified? If yes, what reliefs the disputant are entitled and what other directions, if any, are necessary in the matter?”

2. After Registering the matter notices were issued to parties. In response to the notice, the State Committee Member, CITU has filed letter of authorization to represent 1st Party in the ID case on 22.08.2022. But despite the sufficient opportunity afforded the Petitioner did not file any claim statement, it seems Petitioner don't want to prosecute his case.

3. Therefore, in view of the above “No Claim” Award is passed. Transmit.

AWARD

No Claim Award is passed. Transmit

(Dictated to Secretary to Court, transcribed by him, corrected and signed by me on

4th October 2024)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 30 अक्टूबर, 2024

का.आ. 2046.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (सन्दर्भ संख्या 38/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22/10/2024 को प्राप्त हुआ था।

[सं. एल-22013/01/2024-आईआर(सीएम-II)]

मणिकंदन एन, उप निदेशक

New Delhi, the 30th October, 2024

S.O. 2046.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.I.D.No.38/2023**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on 22 /10/2024

[No. L-22013/01/2024-IR(CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Shri Ananda Kumar Mukherjee,
Presiding Officer
CGIT-cum-LC, Asansol

REFERENCE NO. 38 OF 2023

PARTIES : Raju Mahato

v/s

Management of Parasea colliery, Kunustoria Area of ECL

REPRESENTATIVES:

For the union (Workman): Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: COAL

STATE : WEST BENGAL

Dated : 27.09.2024

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Ministry of Labour, Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Asansol, vide its Order **No. 1(33)/2023/E** dated 26/07/2023 has been pleased to refer the following dispute between the employer, that is the Management of Parasea Colliery under Kunustoria Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal

SCHEDULE

“Whether the action of the management of Parasea Colliery under Kunustoria Area of M/s. ECL in dismissing the service of Shri Raju Mahato, U.G. Loader, UM NO- 110640 w.e.f. 11/16.11.2011 is justified? If not what relief the concerned workman is entitled to.”

1. On receiving Order **No. 1(33)/2023/E** dated 26/07/2023 from the Office of the Deputy Chief Labour

Commissioner (Central), Asansol, Ministry of Labour and Employment, Government of India, for adjudication of the dispute **Reference case No. 38 of 2023** was registered on 28/07/2023 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Raju Mahato, dismissed workman filed his written statement through Mr. Rakesh Kumar, President, Koyala Mazdoor Congress. Fact of his case leading to this Industrial Dispute is that Raju Mahato was posted as UG Loader at Parasea colliery under Kunustoria Area of ECL. He was unable to attend his duty from 01/10/2010 due to illness of his wife. Being only adult member in his family to look after his wife, he could not attend his duty and subsequently himself fell ill preventing him from joining duty. Management of the company issued a charge sheet against him on 26/02/2011 under clause 26.29 for his unauthorized absence for more than ten days and under clause 26.23 of the certified standing orders for his habitual absence without any sufficient cause.

3. Raju Mahato submitted reply to the charge sheet and informed that due to illness of his wife and himself he was unable to join duty. Workman also participated in the enquiry proceeding and requested the management representative and the Enquiry Officer to allow him to join duty but his plea was not considered. Management of Parasea colliery initiated a Note Sheet proposing punishment to the workman and the General Manager of Kunustoria Area issued an order of dismissal of Raju Mahato on 16/11/2011. After dismissal Raju Mahato submitted an application praying for mercy but the management did not consider his mercy petition according to terms of Memorandum of Settlement dated 22/05/2007. It is the contention of the workman that for absence of four months and few days management has imposed a punishment upon him which is harsh and disproportionate to the nature of misconduct. Workman has no any other source of income for his livelihood and to meet the expenditure of his family members and children. It is urged that the punishment imposed is unjustified and no second show cause Notice was issued to him before dismissal, which is a clear violation of guidelines of Hon'ble Supreme Court and the Circular of the Coal India Limited. It is prayed that order of dismissal be declared illegal and unjustified and the workman may be reinstated in his service with full back wages.

4. Management of the Parasea colliery contested the Industrial Dispute by filing a written statement on 12/09/2023. According to the management of ECL Raju Mahato was employed at Parasea colliery having UM No. 110640 and was designated as UG Loader. He remained absent from duty from 01/10/2010 without any authorized leave or intimation. A charge sheet was issued to him on 26/02/2011 on charge of absence from duty for more than ten days without any sanctioned leave and without reasonable cause as per clause 26.29 and for his habitual absence from duty without sufficient cause, as per clause 26.23 of the certified standing orders of the company. Workman submitted reply to the charge sheet but the management decided to hold a domestic enquiry in respect of the charges levelled. An enquiry was conducted complying the principle of Natural Justice. Workman participated in the enquiry and he was given full opportunity to defend himself and cross-examine the management representative. Raju Mahato accepted the charges levelled against him and finally the Disciplinary Authority terminated him from the service of the company vide letter No. A-KNT/P&IR/26/(C)/2685 dated 16/11/2011 of the General Manager, Kunustoria Area. On 05/03/2023 the union raised an Industrial Dispute by filing an application before the conciliation officer i.e. ALC (C) at Asansol contending that no charge sheet and Notice of Enquiry were served upon the workman and management dismissed him from service without considering mercy petition and thereby misrepresented the facts of the case. It is contended that workman was dismissed on 16/11/2011 and Industrial Dispute was raised after more than ten years i.e. on 05/03/2023 which indicates that workman was not serious regarding his job.

5. Management further stated that workman was a habitual absentee and in the last three years, prior to his dismissal, his attendance was unsatisfactory. It is specified that workman attended duty for only ninety eight days in the year 2008, seventy days in the year 2009 and sixty three days in the year 2010. On four earlier occasions opportunity was granted to him by issuing four warnings dated 26/03/2003, 18/08/2003, 28/05/2008 and 27/06/2008. Management relied upon a decision of Hon'ble Supreme Court of India in Nedungadi Bank Limited Vs K.P. Madhavan Kutty and Others reported in (2000) 2 SEC 455 and submitted that Hon'ble court held that dispute raised after long time was stale which cannot be assumed to be in existence and accordingly management prayed for dismissal of the case.

6. In this backdrop of facts, question which now emerge for consideration is whether the dismissal of Raju Mahato from service by the management of Parasea colliery is justified and what relief the concerned workman is entitled to.

7. In support of the case the workman has filed an affidavit on 27/03/2024 and examined himself as WW-I. In his affidavit workman has reiterated his case disclosed in written statement and stated that charge sheet was issued on 26/02/2011. He participated in the enquiry and stated the circumstances under which he could not attend duty. In Paragraph seven of affidavit-in-chief the workman stated that management of the colliery proposed for allowing him to join duty with a recommendation of stoppage of one SPRA as punishment. Management at Area level did not consider the recommendation of the Agent and decided to award punishment of dismissal without issuing a second show cause Notice. He had also submitted a mercy appeal in the light of the Memorandum of Settlement dated 22/05/2007. The workman was absent for four months and few days which is less than nine months and at relevant time his age was below forty five years for which his mercy appeal should be considered as per Memorandum of

Settlement. It is ascertained that punishment awarded was disproportionate to the alleged misconduct. In course of evidence-in-chief on oath the workman produced the following documents:

- (i) copy of Identity Card of Raju Mahato is produced as Exhibit W-1
- (ii) copy of charge sheet dated 26/02/2011 is produced as Exhibit W-2
- (iii) copy of Note Sheet issued by the Agent, Parasea colliery dated 11/06/2011 is produced as Exhibit W-3
- (iv) copy of order of dismissal issued on 16/11/2011 is produced as Exhibit W-4
- (v) copy of corrigendum dated 30/11/2011 stating date of termination as 16/11/2011 is produced as Exhibit W-5
- (vi) copy of letter issued by the Welfare Officer (Trainee) is produced as Exhibit W-6

In cross-examination witness stated that he participated in the enquiry but did not submit documents relating to illness. He denied suggestion that his absence was not due to illness of himself and his wife. Witness further stated that no second show cause Notice was issued to him.

8. In support of their case management examined Mr. Soram Sanjoy Singh as MW-I. He filed affidavit-in-chief and produced the following documents:

- (i) copy of charge sheet is produced as Exhibit M-1
- (ii) copy of letter dated 28/03/2011 related to the appointment of Enquiry Officer is produced as Exhibit M-2
- (iii) copies of Notices of Enquiry dated 03/06/2011 and 14/05/2011 are produced as Exhibits M-3 and M-4 respectively
- (iv) copy of warning letter by which Raju Mahato was permitted to resume his duty is produced as Exhibit M-5
- (v) copy of Enquiry proceeding report and findings in four pages collectively is produced as Exhibit M-6
- (vi) copy of letter of dismissal dated 16/11/2011 issued by the General Manager is produced as Exhibit M-7

In his cross-examination, management witness stated that enquiry proceeding was concluded on 04/06/2011 and Note Sheet was issued by the Dy. CME/Agent, Parasea colliery on 11/06/2011 whereby he recommended that charged employee should be allowed to join duty with stoppage of one SPRA as punishment. Witness stated that Agent is not the Disciplinary Authority and he did not have the occasion to consider the Enquiry Report for imposing punishment. Witness could not state why the management took five months' time to dismiss the workman after conclusion of the enquiry proceeding. There is a clear admission on part of management witness that no second show cause Notice was issued to the charged employee and he was also unable to state as to what decision was taken by the management relating to the mercy petition of Raju Mahato who was called to the Head Quarters.

9. Mr. Rakesh Kumar, union representative advancing argument on behalf of dismissed workman submitted that Raju Mahato was unable to attend duty for four months and few days due to illness of his wife but the management issued Charge Sheet against him on 26/02/2011. When he reported for duty a domestic enquiry was started against him on the charge of unauthorised absence for more than ten days and for his habitual absence in the previous three years. Workman participated in the enquiry proceeding and disclosed that due to his wife's illness he was not able to attend duty. Management did not consider his plea and issued a Note Sheet where Agent of the colliery recommended to allow him join duty after stoppage of one SPRA as punishment. It is argued on behalf of the dismissed workman that management issued a letter of dismissal against him on 16/11/2011 terminating his service with immediate effect without having issued a second show cause Notice as mandated by the **Hon'ble Supreme Court in the case of Union of India and Others Vs. Md. Ramzan Khan [AIR (1991) SC 471]** and which was adopted by the Director (P&IR) of Coal India Limited in their circular No. CIL C-5A (vi) /50774/28 dated 12/05/1994. It is inter alia argued that the punishment of dismissal from service is disproportionate to the charges levelled against the workman. It is submitted that order of dismissal is arbitrary, illegal and the same is required to be set aside. Mr. Rakesh Kumar further submitted that workman after dismissal had prayed for mercy and the management had called the charged employee and recommended a proposal for his reinstatement in service but the matter is still pending and undecided. According to the union a Memorandum of Settlement dated 22/05/2007 was signed between various unions and the Management Representatives wherein it was agreed that if period of absence was less than nine months and age of the employee was less than forty five years, management would consider his/her mercy application. However, in the present case management has not taken into consideration of the mercy petition. It has been prayed that workman may be reinstatement in service with back wages and all other consequential benefits.

10. Mr. P. K. Das, learned advocate for the management of Parasea colliery argued that charges levelled against the workman under clause 26.23 and 26.29 of the certified standing orders applicable to the workman have been well established. It is submitted that workman never denied that he was not absent from duty from 01/10/2010 till 26/02/2011 without any information to the management. Charge of habitual absence during the year 2008, 2009 and 2010 is also evident from the enquiry proceeding. It would appear that he has not served two hundred forty days in these preceding years. According to the learned advocate workman participated in the enquiry proceeding but he

failed to produce medical documents in support of his wife's illness. Workman had been provided reasonable opportunities to establish his case against the charges levelled but he was not successful in doing so. Therefore, management of the Parasea colliery is fully justified in dismissing the workman from service. It is further pointed out that workman was a habitual absentee and didn't perform his duty in a proper manner. On prior occasions minor punishments were passed against the workman and he was allowed to resume duty after warning but he could not rectify himself. Learned advocate fairly admitted that no second show cause Notice was issued to the workman before passing order of termination from service. It is urged that workman was terminated w.e.f. 16/11/2011 but he did not raise dispute for more than ten years. Workman raised this Industrial Dispute for the first time on 05/03/2023. Therefore, Industrial Dispute is liable to be dismissed.

11. Considered the rival contentions of the union and the management in the light of referred Industrial Dispute and materials on record. It transpires from the evidence of workman that he had remained absent from duty without any information and charge sheet was issued against him on 26/02/2011 (Exhibit W-2). Charge sheet reveals that workman had remained absent since 01/10/2010 without any sanctioned leave. Besides such charge under clause 26.29 for his long unauthorised absence the workman was also charged under clause 26.23 for his habitual absence from duty without any sufficient cause. It appears from the enquiry proceeding that workman had attended duty for ninety eight days in the year 2008, seventy days in the year 2009 and sixty three days in the year 2010. In the written statement and affidavit-in-chief, workman has stated that he submitted reply against the charge sheet. During evidence he did not produce copy of reply. A domestic enquiry was held and a copy of enquiry proceeding report and findings has been produced by the management in four pages as Exhibit M-6. Workman participated in the enquiry proceeding held on 04/06/2011. Statements of Mr. Amit Ghosh, management witness and Raju Mahato, charge sheeted workman were recorded. Nothing has transpired to demolish the charge and it appears to me that enquiry proceeding was carried out by the management providing reasonable opportunities to the workman to represent himself and adduce evidence in support of his defence. He has clearly admitted that he was unable to produce medical certificates and had not informed the management about the incident. Management appears to have followed the Principle of Natural Justice before holding the charge sheeted workman guilty of misconduct in respect of clauses 26.29 and 26.23 of certified standing order. Union produced a copy of Note Sheet dated 10/11.06.2011 as Exhibit W-3 wherein the Agent proposed that considering past record and present unauthorised absence, the charged employee might be allowed to join duty after stoppage of one SPRA as punishment. Contention of the union is that order of dismissal is a punishment disproportionate to the misconduct and it has been passed without considering the proposal of the Agent, Parasea colliery. Letter of dismissal which is marked as Exhibit W-4 and M-7 reveals that the General Manager who is the Competent Authority and Disciplinary Authority has taken into consideration the Enquiry Officer's report against the workman and has gone through the enquiry proceeding and findings of the Enquiry Officer and was of the opinion that there was no circumstance to award lesser punishment and therefore decided to terminate the service of the workman. General Manager being the Disciplinary Authority is vested with the jurisdiction to award punishment of any description. In doing so he ought to have born in mind that issuance of second show cause Notice and service of Enquiry proceeding and findings of the Enquiry Officer to the charge sheeted workman was a prerequisite before passing any final order/punishment. It is a settled principle of law that if the Enquiry Officer and the Disciplinary Authority were different persons then the charged employee should be given opportunity to make his representation in respect of findings made against him in the enquiry and after consideration of the representation, the Disciplinary Authority would be justified in passing an appropriate punishment proportionate to the charge established.

12. In the case of **Union of India and Others Vs. Md. Ramzan Khan [AIR (1991) SC 471]** Hon'ble Supreme Court of India laid down as follows "*When the Inquiry Officer is not the Disciplinary Authority, the delinquent employee has a right to receive a copy of the inquiry officer's report before the Disciplinary Authority arrives at its conclusion with regard to the charges levelled against him. A denial of the inquiry officer's report before the Disciplinary Authority takes its decision on the charges, is denial of opportunity to the employee to prove his innocence and is a breach of principles of natural justice.*". Coal India Limited in respect of which Easter Coalfields Limited is a subsidiary has issued a circular No. CIL C-5A (vi)/50774/28 dated 12/05/1994 wherein it has been laid down that a charged employee had to be supplied with a copy of enquiry proceeding and enquiry report and a second show cause Notice has to be issued to him before taking any final decision of removing him from service. It is an admitted fact that in the present case no second show cause Notice was issued to the workman. Therefore, this is a clear violation of the mandate of Hon'ble Supreme Court of India as finality reached by way of termination of the workman from service has been done in contravention of the Principle of Law laid down by the Hon'ble Supreme Court of India as well as the circular issued by the Coal India Limited.

13. Though this Industrial Dispute has been raised after a period of ten years from the date of dismissal of the workman on 16/11/2011, same cannot be left undecided on the ground that dispute has become stale. There is no limitation in respect of time for raising Industrial Dispute. Therefore, workman should get an opportunity to exercise law in his favour. In view of such facts and circumstances and law involved I have no hesitation to hold that order of dismissal issued by the General Manager, Kunustoria Area in his letter bearing No. A-KNT/P&IR/26/(C)/2685 dated 16.11.2011 is not sustainable under law and the same is set aside.

14. At this stage I am not inclined to direct the management for reinstatement of the workman in service nor to pay him back wages until a second show cause Notice has been served upon the workman along with copy of enquiry

proceeding and findings, and providing him an opportunity to submit representation in respect of the findings of enquiry. Management shall take into consideration the representation submitted by the charged employee and all other materials before passing any final order of any nature. Management shall also take into consideration any application already submitted and communicate the findings to the workman within fifteen days.

Hence,

ORDERED

that the Industrial Dispute is accordingly allowed in part on contest in favour of the workman. Order of termination of Raju Mahato from service by letter No. A-KNT/P&IR/26/(C)/2685 dated 11/16.11.2011 of the General Manager, Kunustoria Area is set aside. Management of Parasea colliery, Kunustoria Area shall issue a second show cause Notice along with enquiry proceeding and findings of Enquiry Officer to the workman within one month from the date of communication of Award and after considering representation and mercy petition if any, within a fortnight management shall communicate the findings to the workman. Let an Award be drawn up accordingly and copies be communicated to the Ministry of Labour and Employment for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 30 अक्टूबर, 2024

का.आ. 2047.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (सन्दर्भ संख्या 45/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22/05/2024 को प्राप्त हुआ था।

[सं. एल -22012/290/97-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 30th October, 2024

S.O. 2047.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.I.D.No.45/1998**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **22/10/2024**.

[No. L-22012/290/97 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,
ASANSOL.**

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 45 OF 1998

PARTIES: Dilo Rabidas
(represented by the legal heirs)

Vs.

Management of Ningah Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Ms. Debarati Konar, Advocate.

For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 23.09.2024

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/290/97/IR(CM-II)** dated 19.08.1998 has been pleased to refer the following dispute between the employer, that is the Management of Ningah Colliery under Sripur Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the management of Ningah Colliery under Sripur Area of M/s. ECL in changing the year of birth of Dilo Rabidas Hauledge Khalasi as year 1938 is justified ? If not, to what relief is the concerned workman entitled ? ”

1. On receiving Order **No. L-22012/290/97/IR(CM-II)** dated 19.08.1998 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 45 of 1998** was registered and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.
2. After registration of the Industrial Dispute the deceased workman was substituted by the legal heirs on 03.06.2009. Mr. Sayantan Mukherjee, learned advocate, initially appeared for the union, Janta Colliery Mazdoor Congress and filed the written statement on 12.01.2010. In brief, the fact of the case as per pleading is that Dilo Rabidas was a ‘Haulage Khalasi’ at Ningah Colliery under Sripur Area of Eastern Coalfields Limited (hereinafter referred to as ECL). His Unique Man Number was 268303 and Coal Mines Provident Fund Account Number was B/569613. The workman was appointed in the year 1963 and his year of birth was recorded in the Statutory Form-B Register of Ningah Colliery as 1943. Dilo Rabidas was thereafter transferred to Sripur Seam Incline under Sripur Area of ECL and again transferred to Ningah Colliery from where he was illegally superannuated on 01.07.1998, treating his year of birth as 1938 instead of 1943.
3. In the year 1987 the Service Record Excerpt (hereinafter referred to as SRE) was served upon the workman and for the first time he came to know that his year of birth was wrongly recorded as 1938. Dilo Rabidas raised objection against his wrong year of birth, recorded in the Form-B Register of the defendant company but the management did not determine the age of the workman by referring him to the Apex Medical Board and without any basis recorded the year of birth of the workman as 1938. It is the case of the union that the year of birth of the workman was recorded as 1943 in the Original and Statutory Form-B Register of Ningah Colliery and in the Identity Card issued by the erstwhile management. It is urged that the year of birth of the workman recorded in the Form-B Register and other records of the company is without any basis, false, vague and is not supported by any document. It is contended that on 11.12.1997 a Notice of superannuation bearing Ref. No. M/N/C-6/96/83/3738 dated 11.12.1997 was issued by the Manager of Ningah Colliery, declaring that he shall attain the age of superannuation i.e., sixty years as on 01.07.1998 and the management has decided to terminate his service on superannuation on 01.07.1998. The workman requested the management for rectifying his date of birth in the Form-B Register and withdrawing the Notice of superannuation but the management paid no heed to his request, as such this Industrial Dispute has been raised. It is the case of the union that by treating his year of birth as 1938, Dilo Rabidas has been superannuated five years prior to his actual date of superannuation. Thereby he has suffered irreparable loss and damages. The workman died on 12.09.2002 during pendency of the Reference case and his legal heirs have been substituted. The union on behalf of the substituted legal representative of Dilo Rabidas urged that his actual year of birth is 1943 and the Tribunal may be pleased to set aside the Notice of superannuation dated 11.12.1997, issued by the Manager of Ningah Colliery and hold that one of the dependent of the workman is entitled to employment as the workman died in harness in the year 2002 and the back wages of Dilo Rabidas for the period from 01.07.1998 to 30.06.2003 be paid to the legal heirs of Dilo Rabidas.
4. Management contested the Industrial Dispute by filing their written statement. According to the contents of their written statement, the date of birth of Dilo Rabidas was correctly recorded in the Form-B Register and as a token of acceptance of correctness the workman put had put his Left Thumb Impression in the Register (hereinafter referred to as LTI). In the year 1985 a new Form-B Register was prepared and the date of birth was correctly recorded as 1938 which was also accepted by the workman by putting his LTI in the Register. In the Service Book of the workman his year of birth was recorded as 1938, which was again accepted by the workman by putting his LTI without any objection. SRE containing service particulars were issued to the workman in 1987, declaring his year of birth as 1938 but the workman did not raise any objection. It is denied that the year of birth was recorded as 1943 in the Service Records of the company. The union in terms of their letter dated 28.07.1996 raised dispute before the Assistant Labour Commissioner and the employer submitted their reply on 21.03.1997. It is urged that the union has not been able to make out their case at the time of conciliation to establish the foundation of the year of birth of the workman as such the Industrial Dispute is not tenable. The management denied that the superannuation of the workman was illegal and that the legal heirs are not entitled to any relief.
5. Ram Kishun Das @ Abinash Goutam, son of Dilo Rabidas filed an affidavit-in-chief and was examined as Workman Witness - 1. In the affidavit-in-chief it is stated that Dilo Rabidas was initially appointed at Ningah Colliery under Sripur Area of ECL and his year of birth was recorded as 1943 in the Original and Statutory Form-B Register

of Ningah Colliery and subsequently his father was transferred to Sripur Seam Incline under Sripur Area of ECL. Thereafter he was transferred back to Ningah Colliery, where he was illegally superannuated in a premature manner. It is averred that the year of birth of his father was rightly recorded in the Identity Card, issued by the erstwhile management. It is stated by the workman witness that in the Identity Card, issued by the Election Commission of India, the age of his father was recorded as fifty years as on 01.01.1995, which is more or less the actual year of birth of his father. In the year 1987 for the first time Dilo Rabidas learnt that his year of birth is wrongly recorded as 1938 in the Service Record and duplicate Form-B Register of the company and he raised a complaint in the Remarks column of the SRE and submitted the same before the management of Sripur Seam Incline. It is urged that the management of Sripur Seam Incline is in possession of the original SRE of the deceased employee. Though the workman raised dispute regarding his year of birth recorded in the duplicate Form-B Register, the management of the company did not arrange for his age determination by the Apex Medical Board. The management has wrongly and arbitrarily altered the year of birth of the employee as 1938 in the duplicate Form-B Register without any foundation. Accordingly, the superannuation Notice dated 11.12.1997 was issued to the workman by the management of Ningah Colliery be set aside and one of the dependent of the deceased employee be provided with employment and the legal heirs of Dilo Rabidas be paid full back wages and other consequential benefits, as if he had not been superannuated from service prior to 30.06.2003. The workman witness produced a copy of Identity Card of Dilo Rabidas as Exhibit W-1, which is marked after objection. A copy of superannuation Notice dated 11.12.1997 has been produced as Exhibit W-2.

6. In course of cross-examination witness denied the suggestion that the Identity Card produced as Exhibit W-1 is a fabricated document or that it was not issued by the colliery authority. He also denied that the year of birth of his father is 1938 and that he should have been superannuated considering his year of birth as 1938.

7. Mr. Ajit Kumar Mazumdar, Deputy Manager (Personnel), Ningah Colliery has been examined as Management Witness – 1. In his affidavit-in-chief he has reiterated the case of the management by stating that the year of birth of Dilo Rabidas is recorded as 1938 in the Service Book of the company and the same is reflected in the Service Record of the company. It is also stated that the workman superannuated from service on 30.06.1998 on his attaining sixty years of age as per his date of birth entered in the Service Record. In the affidavit-in-chief it is stated that the year of birth recorded in the Identity Card of the ex-workman as 1943 is not correct and in the statutory documents the year of birth of the workman was never recorded as 1943. It is asserted that the Identity Card is not a statutory document for considering the age of superannuation and the Form-B Register and SRE are the documents which have to be relied upon for the purpose of superannuation of a person and the management committed no illegality by superannuating the workman from service. According to the management witness the ex-workman and his legal heirs are not entitled to any relief and the Industrial Dispute is liable to be dismissed. Management witness produced the following documents in course of his examination :

- (i) Copy of the Form-B Register of Ningah Colliery bearing name of Dilo Rabidas is produced as Exhibit M-1 (after objection).
- (ii) Copy of the Service Book of Dilo Rabidas, prepared after nationalization, as Exhibit M-2.
- (iii) Copy of the Form-B Register of Sripur Seam Incline, bearing the name of Dilo Rabidas in which his year of birth is mentioned as 1938 is produced as Exhibit M-3 (after objection).

8. In course of cross-examination Management Witness stated that Exhibit M-1 was prepared in the year 1985 and the basis of the entries made in the Form-B Register have not been recorded. The witness stated that he has produced document to establish that the SRE was served upon Dilo Rabidas.

9. The point for consideration is whether the year of birth of Dilo Rabidas was wrongly recorded as 1938 and what relief the workman is entitled to?

10. Ms. Debarati Konar, learned advocate for the dependent of the deceased employee, Dilo Rabidas, argued that the date of birth of Dilo Rabidas was recorded as 1943 in the original Form-B Register of Ningah Colliery. In his Identity Card the year of birth of the workman was recorded as 1943 which has been marked as Exhibit W-1 (after objection). It is submitted that Dilo Rabidas was thereafter transferred to Sripur Seam Incline and in the year 1987. SRE was served upon him, when for the first time he came to know that his year of birth was wrongly recorded as 1938 in the duplicate Form-B Register of the company and he raised objection against such wrong recording of his year of birth. Learned advocate further argued that though the workman raised objection against wrong year of birth recorded in the duplicate B-Form Register, the employer company did not refer him for determination of his age by the Apex Medical Board. Notice of superannuation was issued on the basis of incorrect date of birth, bearing Ref. No. M/N/C-6/96/83/3738 dated 11.12.1997, wherein the management of Ningah Colliery informed Dilo Rabidas that he would superannuate from service on and from 01.07.1998, which has been produced as Exhibit W-2. It is argued that Dilo Rabidas was entitled to be in service upon 30.06.2003 but he was ultimately superannuated from service on 01.07.1998. After raising the Industrial Dispute, Dilo Rabidas died on 12.09.2002. Learned advocate argued that the order of superannuation is illegal and liable to be set aside and Dilo Rabidas who died in the meantime on 12.09.2002, his legal heirs are entitled to money equivalent to the wage of Dilo Rabidas from 01.07.1998 to

12.09.2002. Learned advocate for the dependent of Dilo Rabidas inter-alia argued that the Identity Card of Dilo Rabidas issued by the management clearly states his year of birth as 1943, on the other hand the management has failed to produce any document in support of their claim that the year of birth of Dilo Rabidas is 1938. Learned advocate in support of her argument relied upon a decision of the Hon'ble High Court of Allahabad in the case of **Shyam Lal Vs. Additional Commissioner and Others [C.M.W.P. No. 9257/1980]**, wherein it was held that in the absence of any certificate, the date of birth recorded in his Service Book must be deemed to be his correct date of birth. Learned advocate for the dependent of the deceased employee also relied upon the decision of the Hon'ble Supreme Court of India in the case of **Gopal Krishnaji Ketkar Vs. Mohamed Haji Latif and Others [AIR 1968 SUPREME COURT 1413]**, wherein the Hon'ble Supreme Court of India held that a party in possession of best evidence which would throw light on the issue consciously withholds it, Court ought to draw an adverse inference against him notwithstanding that onus of proof does not lie on him and that party cannot rely on abstract doctrine of onus of proof or on the fact that he was not called upon to produce it. Learned advocate argued that in the instant case the management of the company had the original Form-B Register of Ningah Colliery of the year 1963 in their custody in which the year of birth of Dilo Rabidas is recorded as 1943 but they withheld such evidence and adverse inference should be drawn against them for non-production of original document and its place producing the duplicate Form-B Register which was subsequently prepared.

11. Mr. P. K. Das, learned advocate for the management of ECL argued that the year of birth of Dilo Rabidas was all through recorded in his Service Record as 1938 and in the year 1987 SRE was served upon him but the workman did not raise any objection. It is only after the Notice of superannuation was served upon the workman, disclosing his date of superannuation as 01.07.1998 based upon his year of birth as 1938, the workman raised the Industrial Dispute. It is argued that the document which has been produced on behalf of the dependents of the workman as the Identity Card of Dilo Rabidas does not bear any seal or signature of any issuing authority of ECL. The admission of document has been objected against and no evidentiary value can be attached to the same. It is argued that the year of birth was recorded as 1938 in the Service Book, which has been marked as Exhibit M-2 and SRE was also issued to him in which the year of birth was recorded as 1938. Learned advocate referred to the Form-B Register of Ningah Colliery and Sripur Seam Incline which have been produced as Exhibit M-1 and M-3 respectively where his year of birth has been consistently recorded as 1938 which are statutory service record of the company lying with the management of the employer company. It is urged that the management has produced the statutory documents in their possession which demolishes the claim of the union. It is argued that the legal heirs of the workman have not been able to discharge their onus by producing any primary document in support of the year of birth of Dilo Rabidas, as such they are not entitled to any relief in this case.

12. I have considered the rival contention of the legal heirs of Dilo Rabidas and management. The initial onus of proof lies upon the person who asserts a thing to be true. In the present case the union has raised the dispute that the year of birth of Dilo Rabidas was 1943. The only document which has been produced at the time of evidence is Exhibit W-1, which is purportedly an Identity Card of Dilo Rabidas. The document does not bear the name of the person as it has faded out over the years and the same does not bears any authentication from the office of the management and at the time of admitting the same in evidence the management raised objection. On the face of the document, it appears that it is incomplete in nature and I am unable to place reliance upon the same unless it is corroborated by some other evidence. No other document relating to year of birth of Dilo Rabidas has been produced on behalf of the legal heirs of the workman. The two other documents produced by the workman are the Notice of superannuation dated 11.12.1997 (Exhibit W-2) which disclosed the date of superannuation and termination of service of Dilo Rabidas as 01.07.1998. The other document is a copy of death certificate (Exhibit W-3) discloses that Dilo Rabidas died on 12.09.2002. The management on the other hand produced a copy of service record of the superannuated employee as Exhibit M-2 where the year of birth of Dilo Rabidas is recorded as 1938. No objection was raised on behalf of the workman at the time of admitting the document in evidence. The management witness stated that SRE was issued to the workman regarding his date of birth but he did not raise any objection. The Form-B registers of Ningah Colliery and Sripur Seam Incline have been marked as Exhibit M-1 and M-3 respectively after objection. In both these statutory documents the year of birth of Dilo Rabidas has been consistently recorded as 1938. No evidence has been brought on record to establish that the workman on earlier occasion raised any objection regarding his year of birth recorded in the Form-B Register or against the Service Record wherein his year of birth is also recorded as 1938. From Exhibit M-3, the Form-B Register of Sripur Seam Incline it appears the Dilo Rabidas was released for SSI to Ningah on 05.08.1994. In the same Form-B Register there are entries in respect of two other persons. There is no interpolation in the year of birth recorded in the columns for Age and Sex of the person. Though objection has been raised against the copy of Form-B Register, I do not find such objection to be tenable in the light of the fact that the same is maintained in the official course, containing entries in relation to other employees as well.

13. The decision of the Hon'ble High Court of Allahabad in the case of **Shyam Lal Vs. Additional Commissioner and Others [C.M.W.P. No. 9257/1980]**, relied on behalf the workman, I find the same goes against the workman as it has been observed that :

"In the absence of any certificate of his having passed the High School or any equivalent examination at the time of his entry into the service, the date of birth or the age recorded in his service book must be deemed to be his correct

date of birth for all purposes in relation to his service including eligibility for promotion, superannuation, premature retirement or retirement benefits.”

In the present case the workman has not produced any Certificate. Therefore, the age of the workman recorded with the employer company shall have predominance over other claims. The workman at the fag end of his employment cannot be allowed to raise dispute with regard to the year of birth recorded by the employer to get additional benefit.

14. In another decision of the Hon'ble Supreme Court of India in the case of **Gopal Krishnaji Ketkar Vs. Mohamed Haji Latif and Others [AIR 1968 SUPREME COURT 1413]**, cited on behalf of the workman, the general principle regarding adverse presumption under Section 114(g) of the Indian Evidence Act of 1872 wherein it is laid down that a party in possession of the best evidence which could throw light upon the issues in controversy, withholds the same from the court cannot rely upon abstract doctrine of onus of proof. In the instant case the primary onus relating to the proof of workman's year of birth lies upon his legal heirs, which they have failed to discharge. The company is in possession of document containing year of birth of the workman recorded for several years and maintained as Service Record of the employee are produced as Exhibit M-1, M-2 and M-3. The entries found therein are consistent regarding the year of birth of Dilo Rabidas, which is 1938. From the facts and evidence, I am unable to hold that the management has withheld the best evidence with them, available in this matter.

15. Having considered the facts and circumstances and the evidence on record, I hold that Dilo Rabidas has been superannuated from his service w.e.f.

01.07.1998 on the basis of his year of birth recorded the Service Record lying with the company. The Industrial Dispute raised by the union on behalf of the workman and thereafter pursued by the legal heirs has no merit and the same is dismissed on contest.

Hence,

ORDERED

that the Industrial Dispute is dismissed on contest. Let an Award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 30 अक्टूबर, 2024

का.आ. 2048.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 01/2024) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30/10/2024 को प्राप्त हुआ था।

[सं. एल -22013/01/2024-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 30th October, 2024

S.O. 2048.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2024) of the **Central Government Industrial Tribunal-cum-Labour Court, Kolkata** as shown in the Annexure, in the industrial dispute between the Management **Food Corporation of India** and their workmen, received by the Central Government on 30/10/2024.

[No. L-22013/01/2024 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 01 OF 2024

Parties : Employers in relation to the management of

Food Corporation of India, Siliguri

Versus

The President, Food Corporation of India Shramik Union

Appearance:

On behalf of Food Corporation of India, Siliguri: Smt. Debjani Mitra, Ld. Advocate.

On behalf of Food Corporation of India Shramik Union: Absent.

Dated: 15th July, 2024

AWARD

Ld. Counsel for the management of FCI is found present but none appears from the side of the union which has espoused the dispute under reference despite due service of notice upon it on 12-04-2024 as per the track report. Therefore, a presumption can be drawn that the union is no more interested to proceed with the dispute raised by it and as such it is not interested to pursue with the same.

However, by order No. Kol-700020/01/2024-Dy. CLC (C) dated 05-01-2024, the Dy. Chief Labour Commissioner (Central), Kolkata in exercise of power conferred under section 12 (5) read with sub-section (2A) of section 10 of the Industrial Dispute Act, 1947 and in view of notification dt.17-03-2023 u/s 3 (ii) has referred the following issue for determination to this Tribunal :-

“Whether the action of the management (Food Corporation of India, Siliguri) is justified by way of deducting demurrage charges from all the DPS workers from their wages is legal and/or justified? If not, what relief the workers are entitled to?”

Since there is nothing on the record to adjudicate the dispute or issue under reference and as such this Tribunal has no other option but to pass a No Dispute Award.

Accordingly, Reference Case no. 1 of 2024 is disposed of.

Justice K. D. BHUTIA, Presiding Officer.

नई दिल्ली, 30 अक्टूबर, 2024

का.आ. 2049.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोल इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 26/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30/10/2024 को प्राप्त हुआ था।

[सं. एल -22012/334/2003-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 30th October, 2024

S.O. 2049.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the Management Coal India Ltd, and their workmen, received by the Central Government on 30/10/2024.

[No. L-22012/334/2003 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA****Present: Justice K. D. Bhutia, Presiding Officer.****REF. NO.26 OF 2004****Parties:** Employers in relation to the management of**Coal India Limited****AND****Their Workmen**

Appearance :

On behalf of Management:

Mr. Uttam Kumar Mondal

Ld. Advocate -Absent

On behalf of the Workmen :

Mr. Saibal Mukherjee,

Advocate - Present

Dated 16th February, 2023**AWARD**

None appears on behalf of the parties when the matter is called

Record shows on the previous date Ld. Counsel for the Union had put his appearance, but who had informed the tribunal, that he has not been given any authority by the Union to proceed with the case.

Therefore, it can be informed that Union is no more interested to proceed with the case.

The Management who was earlier represented by its counsel has not been taking any step for last two occasions to adduce evidence from its side.

From such conduct of both the parties to the present proceeding it can be informed that parties are not interested to proceed with the case.

Therefore, let me decide the present case on the basis of material on record.

The Govt. of India on the strength of the power conferred by Sec. 10(1) (d) & (2A) of the I.D. Act, 1947, has referred the following dispute for adjudication vide Ministry of Labour Letter No. L-22012/334/2003 (IRCM-II) dated 29.06.2004.

“Whether the action of the management of Coal India Ltd. (HQ), Calcutta in denying promotion to Sh. Prasenjit Majumdar and Sh. Pijush Dasgupta is legal and justified? If not, to what relief the workmen are entitled?”

Facts leading to the present Reference in gist is that the above two workmen named above were initially engaged by the Coal India Ltd. as casual worker on 16.11.81. Their service was regularized on 16th May 1982 as Clerk Grade-III in terms of Order of the Hon'ble High Court. Both of them were subsequently promoted to Clerk Grade-II w.e.f 02.11.91.

They have been promoted or regularised as Clerk Grade III and as Jr. Technical Inspector Grade 'D' w.e.f. 25.07.91 and as Asstt. Technical Inspector – Grade 'C' w.e.f 14.03.1997 and lastly promoted as Technical Inspector Grade 'B' w.e.f. 01.01.2002.

Now, it is the case of the Union that there was a circular inviting application for the post of Jr. Technical Inspector-Grade D on 3rd May, 1989. In response to such Circular the workman Sri Pijust Dasgupta submitted formal application as early as on 26.11.87 he had made an application seeking the posting of Technical Inspector as a Clerk Grade III and also on 26.06.88 as he had all qualification to be a Technical Inspector and which was also acknowledged by Regional Manager vide letter dated 05.10.88, but his application was never considered inspite of having five vacant posts. He again had made a fresh application for the said post on 27.03.89. Nevertheless, the Management vide letter dated 06.06.89 directed him to appear before the selection committee for interview / test on 21.06.89. But no result was declared. However, he was promoted to the next post of LDC Grade II and he resumed the duty of L.D.C Grade II on 02.11.89.

All on a sudden a fresh circular inviting application for the post of Technical Inspector was published on 14.02.91. Accordingly, he submitted his application for the post on 14.02.91. That Management vide Order dated 25.07.91 intimated him that he was re-designated as Junior Technical Inspector 'Gr. -D' in the corresponding Scale

of pay of L.D. Clerk Grade-II and effective date would be the day he assumed charge at his new place of posting as Junior Technical Inspector 'Gr. D'.

He has alleged that he is entitled to get the benefit of post of Junior Technical Inspector 'Gr. D' from 02.11.89 when he first appeared for interview the result of which was withheld by Management and thereby deprived him the financial benefits. His promotion to such post should be deemed from 02.11.89 and not from 25.07.91 the date of his actual promotion.

He has also alleged the Sales Manager (Adm.) D. Banerjee in his note sheet dated 4/5.5.92 has mentioned that he and other two were discharging the duties of J.T.I although designation of L.D.C Grade II. But, Management did not consider such recommendation. He made a representation before the authority, but it was never considered.

He has further alleged that Regional Sales Manager too in his note-sheet dated 12.09.1994 had mentioned that Pijush Dasgupta and Prasenjit Mondal are/ were discharging the function of J.T.I since 02.11.89. But, Personnel Manager turndown the proposal that promotions are considered after gaining experience of minimum three years in the existing grade held both the recommended candidate not eligible for the post.

It has been alleged that they were given promotion to Assistant Technical Inspector Group-C on 14.03.1997, but their seniority was never counted from 02.11.89 and have alleged that they have been deprived seniority benefit and service benefits.

Hence this reference

While the case of the Management is that Regional Sales Manager, West Bengal issued circular for the post of Jr. T.I. in Grade-D on 03.05.89 and later it was found as the same was not circulated to all Regional Sub Office and as such, the procedure adopted by R.S.M., WB being not proper no action was taken on all the procedure that took place and such circular.

Accordingly, fresh circular was issued on 14.02.1991 inviting an application or selection to the post of Jr. T.I. from amongst all eligible employees of all Regional Sales Offices and eligibility criteria for the said

post was graduate in Science with Chemistry and permanent of employee of R.S.O at least for a year.

On the recommendation of the Committee both the workmen were promoted to the post of Jr. T.I Group-D with effect from 25.07.1991 and at the time of promotion they were wording as L.D.C Grade-II.

Then both of them were further promoted to Assistant T.I. Grade-C w.e.f. 14.03.1997 and Technical Inspector Grade-B w.e.f 01.01.2002.

In the span of 20 years both workmen were promoted from Casual to T.I. Grade-B and both of them are not eligible for the post of Senior Technical Inspector Grade-A.

The workmen cannot claim promotion as a matter of right without fulfilling the required qualification and subject to vacancy.

The promotion is guided by Cadre Scheme duly formulated by JBCCI represented by all regd. Five Trade Unions. They cannot claim promotion on the basis of recommendation made in the note-sheet and on their own representation.

Therefore, without actual promotion the workmen cannot claim promotion on notional basis as per their own desire from 27.10.89 and Jr. T.I. Grade-D and Asstt. T.I Grade-C w.e.f. 27.10.92 and T.I Grade-B w.e.f. 27.10.95. Therefore, it has prayed for dismissal of the Reference.

The workmen to prove their claim have examined themselves as W.W. No.1 and W.W. No. 2. They have filed as many as 54 documents and which have been exhibited.

The Management too has examined Puspa Dey as M.W-1 but whose cross examination was not completed and who has failed to appear before the Tribunal to face further cross examination after 24.02.16. From the side of the Management as many as 13 documents have been exhibited.

From the facts discussed above it appears only question which requires determination in the present reference is whether a candidate who appeared in an interview and the result of which was never declared can claim himself to be qualified in such interview from the date of interview?

The simple answer is "No".

A person who does not know whether he is qualified or disqualified in the interview cannot claim himself to be selected for the post (In the present case of promotional post) and cannot claim to have been selected for the post from the date of interview.

It is true that the Authority who calls on interview for a post, it is the duty of the Authority to declare the result or declare the interview to be cancelled.

Exhibit M-3 dated 29.07.1990 clearly shows that there was a circular for filling up of vacancies of Jr. Technical Inspector in Grade 'D' and such post was of Regional Sales Office Cadre and Circular was confined only to West Bengal Cell and it was not circulated in all Regional Sale Offices located throughout the country and as such, the Management appears to have decided to issue fresh circular for filling up such post. By circulating to all Regional Sales Offices of Coal India Ltd. spread throughout the country and on detection of such irregularity the Management had never published the result of interview dated 02.11.1989. Accordingly, issued a fresh Circular dated 14.02.1991 Ext. W. 23/Ext. M-6.

Ext. M.4 the report of the selection Committee shows that both the workmen were qualified for the post of Jr. T.I. Grade 'D' along with Ashim Kumar Jana as all of them were in the post of Clerk Grade-II.

It further shows that one A.K. Naidu, Clerk Grade-II of R.S.M., Bhopal had applied for the post who too was qualified for the post of Jr. T.I. Grade 'D'.

It further shows that there was no existing Post of Jr. T.I in Regional Sales Office and Regional Sales Manager, West Bengal Cell indicated that they will operate the post within the existing strength of Ministerial Cadre sanction of the Competent Authority is required, for operating the post of Jr. Technical Inspector against the post of Clerk Gr. II.

Such remark further highlights that Management was under some pressure to create the post of Jr. Tech. Inspector Grade 'D' further the Clerical Grade-II Cadre.

So, it appears that when the Management legally or illegally issued the circular for filling up the vacancy for the post of Junior Technical Inspector

Grade 'D' in the Year 1989, there was no post of such Junior Technical Inspector Grade 'D' and such Circular was circulated only within Regional Sub Office, West Bengal Cell and not to other Regional Sub Office located throughout the country.

Prima facie the Circular of the 1989 appears to be an illegal, consequently the interview held by he Management on the basis of irregular circular would become an illegal and irregular interview.

That apart the concerned workmen who had qualification for the post cannot claim themselves to be qualified candidate without declaration of result and cannot claim or take benefit of such illegal interview.

Moreso, the Tribunal is of view a person cannot claim benefit of a post/ promotional post until and unless he joins the promotional post.

In the present case both the workmen had joined the post of Junior Technical Inspector Grade 'D' on the strength of Ext. M-8. The Office Order dated 25.07.1991 and that too after qualifying in the selection process to fill up the vacancy as notified in the Circular dated 14.02.1991.

So, it is not known how these two workmen could claim to have joined the promotional post (subject to qualification) in the Year 1989, when they actually got promoted and joined the post only in the Year 1991.

It is worth to mention here that the workman Pijush Das Gupta appears to be over ambitious as he had voluntarily sought himself to be promoted to the post of Jr. Technical Inspector Grade-'D' since the Year 1987 as proved by Ext. W.11, Ext. W.12, Ext. W.13 and Ext. W. 14.

It is worth to mention here that no promotion can be given merely on recommendation without applying for the post and without fulfilling the prerequisite condition for promotion.

In the present case, the workmen have based their claim for promotion not only on recommendation, but also by filing representation before the authority concerned. So, it appears the workman Pijust Das Gupta wanted himself promoted by hook or crook in other words by any means.

In view of the discussion made above, this tribunal find no merit in the reference. First and foremost, the concerned workmen were not denied promotion by the Management.

It is admitted facts that both of them had joined the establishment of Coal India Ltd. as casual employee and whose service was regularised as per the order of the Court and they were regularized as Clerk Grade III. Later they were promoted to the post of Clerk Grade- II and while working as a Clerk Grade II, they on being selected were promoted to the post of Jr. Technical Inspector Grade -D. Then in the normal course, they were promoted to Asstt. Technical Inspector Grade 'C', and lastly, they were promoted as Technical Inspector Grade-'B', the last post to which they were eligible for promotion.

Rather their demand for giving retrospective effect to their promotion to the post of Jr. Technical Inspector Grade 'D' from 02.11.1989 appears to be illegal, when in reality they joined the promotional post of Jr. T.I Grade 'D'

sometime in July, 1991 and that too on the basis of circular dated February, 1991 and passing the interview that took place thereafter.

Accordingly, the Reference 26/2004 is hereby dismissed. An award is passed to that effect.

Send copy of this Award to the Ministry for publication.

Supply copy to the parties.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 30 अक्टूबर, 2024

का.आ. 2050.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार परमाणु ऊर्जा निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, हैदराबाद के पंचाट (पहचान संख्या 43/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/10/2024 को प्राप्त हुआ था।

[सं. एल -42012/209/2005-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 30th October, 2024

S.O. 2050.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 43/2007**) of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **Nuclear Power Corporation** and their workmen, received by the Central Government on **25/10/2024**.

[No. L-42012/209/2005 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

अनुलग्नक

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

सी.जी.आई.टी. प्रकरण सं. 43/2007

Reference. No. L-42012/209/2005-IR(CM-II)

Dated:17.07.2007

महासचिव, परमाणु विद्युत कर्मचारी यूनियन, रावतभाटा सीडू यूनियन, कार्यालय फेज II, डाकघर भाभानगर, वाया कोटा- 323307

.....प्रार्थी—यूनियन

बनाम

स्थल अधिशासी निदेशक, राजस्थान परमाणु बिजलीघर इकाई 1 से 4, पोस्ट— भाभानगर— 323307, वाया कोटा (राज.)

.....अप्रार्थी / विपक्षी

उपस्थित:—

प्रार्थी की ओर से: सुश्री सरिता चौधरी, एड. (श्री सुरेश कश्यप, अभिभाषक की ओर से)।

अप्रार्थी की ओर से : धर्मेन्द्र जैन, अभिभाषक।

: अधिनिर्णय :

दिनांक : 05.08.2024

1. श्रम एवं नियोजन मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 17.07.2007 को औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जायेगा) की धारा 10 (1) (डी) एवं 2। के अन्तर्गत प्रदत्त शक्तियों के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :—

“Whether the action of the management of Nuclear Power Corporation in not allowing 2nd Option to Shri G.P. Sharma for absorption in Nuclear Power Corporation resulting in denial of pro-rata pension is legal and justified? If not, to what relief the workman entitled?”

1. प्रार्थी की ओर से दिनांक 19.04.2010 को दावे का अभिकथन प्रस्तुत करते हुये यह कहा गया कि श्री जी.पी. शर्मा, हेल्पर सी. राजस्थान परमाणु बिजली घर के अस्पताल में कार्यरत था। राजस्थान परमाणु बिजली घर वर्ष 1987 के पहले परमाणु उर्जा विभाग के अधीन था, उसके बाद न्यूक्लियर पावर स्टेशन को 1987 में न्यूक्लियर पावर कोर्पोरेशन

ऑफ इंडिया बना दिया गया। वर्ष 1994 में परमाणु उर्जा विभाग में कार्यरत कर्मचारियों को उक्त कोर्पोरेशन में अन्तरलयन का अवसर दिया गया। श्री जी.पी. शर्मा, हेल्पर सी. ने सितम्बर, 1994 से *NPCIL* में ज्वाइन करने के लिये विकल्प पत्र भरा। विभाग द्वारा 1994 में निकाले गये विकल्प पत्र में *Pro-rata Pension* दिये जाने का प्रावधान नहीं था। किंतु विभाग द्वारा वर्ष 1998 में अन्तरलयन के लिये जो विकल्प पत्र दिया गया उसमें *Pro-rata Pension* दिये जाने का प्रावधान था। परमाणु उर्जा विभाग ने दिनांक 24.12.1997 को ज्ञापन पत्र जारी कर वर्ष 1994 में जिन कर्मचारियों ने विकल्प पत्र भरा था उन्हें विकल्प बदलने का अवसर दिया गया। श्री जी.पी. शर्मा के विरुद्ध 1998 में विभागीय जॉच चल रही थी इसलिए उन्हें विकल्प संशोधित करने का अवसर नहीं दिया गया और यह कहा गया कि जॉच कार्यवाही समाप्त होने पर यह अवसर दिया जायेगा। श्री जी.पी. शर्मा के विरुद्ध जॉच कार्यवाही समाप्त हो जाने पर भी उन्हें अपना विकल्प जो अन्तरलयन के लिये था, बदलने का अवसर नहीं दिया गया। अतः विपक्षी की इस कार्यवाही को अवैध घोषित करते हुये वर्ष 1998 से श्री जी.पी. शर्मा को पुनः विकल्प देने के साथ *Pro-rata Pension* का लाभ दिलवाया जाये।

2. दिनांक 30.05.2012 को विपक्षी द्वारा वादोत्तर प्रस्तुत करते हुये यह कहा गया कि श्री जी.पी. शर्मा की नियुक्ति दिनांक 21.01.1984 से अस्पताल में वार्ड वाय के पद पर की गई थी। श्री जी.पी. शर्मा को रेडबुक का आप्शन फार्म दिया गया था। उन्होंने दिनांक 14.09.1995 को *NPCIL* में ज्वाइन करने का विकल्प चुना साथ ही *Pro-rata Pension* एवं फेमिली पेंशन के बदले 100 प्रतिशत *Commutation* प्राप्त करने का विकल्प चुना था। श्री जी.पी. शर्मा के विरुद्ध विभागीय जॉच लम्बित थी जिसके उपरांत दिनांक 16.08.1999 के आदेश द्वारा उनकी वेतन वृद्धि 2 वर्ष के लिये संचयी प्रभाव से रोकी गई। तत्पश्चात श्री जी.पी. शर्मा को अपराधिक प्रकरण में तीन साल के कारावास से दण्डित किया गया और निलम्बित किया गया। तदुपरांत श्री जी.पी. शर्मा को विभागीय जॉच के बाद सेवा पृथक करने का दण्ड दिया गया। इसलिये उन्हें अपना विकल्प देने का कोई अधिकार नहीं था। इसलिए श्री जी.पी. शर्मा कोई अनुतोष पाने का अधिकारी नहीं है।
3. दिनांक 08.01.2015 को प्रार्थी की ओर से श्री गिराज प्रसाद शर्मा का साक्ष्य शपथ पत्र प्रस्तुत किया गया और यह प्रकरण प्रार्थी से प्रतिपरीक्षा के लिये नियत किया गया। तदुपरांत प्रार्थी पक्ष श्री गिराज प्रसाद शर्मा से प्रतिपरीक्षा करवाये जाने हेतु अवसर लेता रहा किंतु साक्षी को प्रतिपरीक्षा हेतु प्रस्तुत नहीं किया। इस प्रकार विगत 9 वर्ष से अधिक की अवधि में प्रार्थी पक्ष ने अपने साक्षी को अधिकरण के समक्ष विपक्षी द्वारा प्रतिपरीक्षा किये जाने हेतु प्रस्तुत ही नहीं किया। दिनांक 16.02.2017 को प्रार्थी पक्ष को इस उद्देश्य हेतु अंतिम अवसर भी दिया गया। इसके बाद दिनांक 14.12.2021, 10.12.2023 व 30.01.2024 तक अंतिम अवसरों को न्यायहित में अग्रसरित किया जाता रहा, जबकि प्रार्थी पक्ष अनुपस्थित था। अंततः दिनांक 30.01.2024 को प्रार्थी की साक्ष्य समाप्त कर दी गई। विपक्षी द्वारा भी इस स्थिति में कोई साक्ष्य प्रस्तुत नहीं करना चाहा गया।
4. इस विवाद में प्रार्थी ने लगभग 9 वर्ष से अधिक का समय और एकाधिक अवसर चेतावनी सहित दिये जाने पर भी स्वयं को प्रतिपरीक्षा हेतु प्रस्तुत नहीं किया। निष्कर्ष रूप में अपनी साक्ष्य प्रस्तुत ही नहीं की। प्रतिपरीक्षा के अभाव में मुख्य परीक्षा के कथन साक्ष्य में ग्रहण नहीं किये जा सकते। इस प्रकार प्रार्थी अपने साक्ष्य से दावे के अभिकथन में किये गये अभिवचनों को प्रमाणित नहीं कर सका है। साक्ष्य के अभाव में प्रार्थी विपक्षी से कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।
5. संदर्भित विवाद का इसी प्रकार न्यायनिर्णयन किया जाता है।
6. अधिनियम की प्रतिलिपि औद्योगिक विवाद अधिनियम, 1947 की धारा 17 (1) के अनुसरण में प्रकाशनार्थ प्रेषित की जावें।
7. न्यायालय द्वारा अधिनियम आज दिनांक 05.08.2024 को सुनाया गया।

राधामोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 30 अक्टूबर, 2024

का.आ. 2051.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद

में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, हैदराबाद के पंचाट (पहचान संख्या 9/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/10/2024 को प्राप्त हुआ था।

[सं. एल -22013/01/2024-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 30th October, 2024

S.O. 2051.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 9/2012**) of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.Ltd.** and their workmen, received by the Central Government on **29/10/2024**.

[No. L-22013/01/2024 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 16th day of October, 2024

INDUSTRIAL DISPUTE L.C.No. 9/2012

Between:

Sri B. Seetharam,

S/o Akkayya,

R/o Flat No.102, H.No. 12-8-423,

Flora Mansion Apartment,

Narsinga Rao Lane Mettuguda,

Secunderabad.

..

....Petitioner

AND

1. Chairman & Managing Director,
M/s. Singareni Collieries Company Ltd.,
Kothagudem, Khammam District.
2. Director (P A & W)
M/s. Singareni Collieries Company Ltd.,
Kothagudem – 507101. Khammam District.
3. Dy. General Manager (Personnel)
M/s. Singareni Collieries Company Ltd.,
Personnel Management Wing,
Kothagudem – 507 101. Khammam dist.
4. Sri Hassan Abbas,
S/o Sajjad Hussain,
Dy. G.M. (Personnel), HRD, Corporate Office,(Rtd.,)
M/s. Singareni Collieries Company Ltd.,
Kothagudem – 507 101.
5. Chief Medical Officer,

The Main Hospital of Singareni Collieries Company Ltd.,
Kothagudem -507101.

6. Dr. J. Ramohan Rao

Dy. Chief Medical Officer,
Area Hospital of Singareni Collieries Company Ltd.,
Ramakrishnapuram. Adilabad district.

7. Sri Quthubuddin

Vigilance Assistant (rtd.)
C/o Vigilance Department,
M/s. Singareni Collieries Company Ltd.,
Corporate Office, Kothagudem 507 101.

8. Sri M.Z. Rehman

Vigilance Officer at Corporate Office,
Vigilance Department,
M/s. Singareni Collieries Company Ltd.,
Corporate Office, Kothagudem 507 101.

9. Sri T. Rama Swamy

Vigilance Assistant,
M/s. Singareni Collieries Company Ltd.,
Corporate Office, Kothagudem 507 101.

... .Respondents

Appearances:

For the Petitioner : Party in Person

For the Respondent: M/s.P.A.V.V.S. Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

Sri B. Seetharam who worked as Refractionist (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No.CRP/PER/IR/D/92-1996 dated 6.11.2010 w.e.f. 10.11.2010 issued by Respondent as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

It is submitted that the Petitioner joined in the Respondent Company as "Refractionist" in the Main Hospital of M/s. The Singareni Collieries Co. Ltd., Kothagudem, on 26.2.1992 which is his initial appointment and latter Petitioner was transferred to Area Hospital, Bellampally on 10.8.1998 and the Petitioner was discharging his duties to the satisfaction of his superiors from the date of initial appointment till the date and he is having unblemished service record of 18 years. It is submitted that Petitioner was unnecessarily implicated in a false case and conducted a make show enquiry and dismissed Petitioner from service. At the time of dismissal Petitioner was discharging duties as "Refractionist" Grade-"B" drawing a monthly gross salary of Rs. 25000/ approximately and take home salary was Rs.18,000/- P.M. It is submitted that Petitioner is a qualified "Optometrist" and was appointed in a permanent post as Refractionist in first Respondent company's Main Hospital, Kothagudem i.e. Fifth Respondent and working since 26.2.1992 in the Respondent company hospitals and Petitioner had unblemished service of 18 years. It is submitted that at the time of joining in employment in first Respondent company hospital Petitioner was a bachelor and latter married Ms.Yamuna Rani on 23.2.1996 while in service. Smt. Yamuna Rani is a post graduate in Nutrition and dietitian and after marriage she studied "Optometrist" course at Sarojini Devi Eye Hospital, Hyderabad from 1996 to 1998 and she completed her course in the year 1998. It is submitted that as per the rules of the company Petitioner furnished the necessary information about his family particulars, wife's name, her educational qualifications and by that time Petitioner's wife was a qualified "Optometrist". Further, Petitioner requested the first Respondent management to effect the necessary changes in various nomination forms and records and clearly declared his wife as

dependent on him. When working at Area Hospital Bellampally the Respondent management unnecessarily implicated Petitioner in a false case on the alleged ground that he was running a regular private eye clinic in the name and style of "Sambhavi Eye Hospital" in Bazar Area of Bellampally basing on some wrong information given by some persons. Even without enquiring from this Petitioner prima facie the second and third Respondents at the behest of sixth Respondent set in motion the Vigilance department claiming to be discreet enquiry through seventh to ninth Respondents herein. In fact the said eye clinic belongs to Petitioner's wife who is a qualified Refractionist and she is carrying on her independent avocation. The Respondent management also alleged against Petitioner that he had not intimated the Management about his wife's educational/ qualifications and designation thus at the behest of sixth Respondent one Sri.M.Z. Rehaman claiming to be the Vigilance Officer arrayed as eighth Respondent along with two Vigilance Assistants Sri Quthubuddin and Sri T.Rama Swamy arrayed as seventh and ninth Respondents came along with them and have chosen to shoot photographs through video of Petitioner's wife discretely when she was coming to her clinic "Sambhavi Eye Hospital" this act was objected by the Petitioner and his wife. The seventh to ninth Respondents came to "Sambhavi Eye Hospital" and were taking a Video on 21-07-2004 at 9-00 PM and when enquired they informed that the first Respondent management officials asked them to do so and also alleged that they caught Petitioner red handed as though they found him in person at his wife's clinic and his wife was not treating the patients in the said eye clinic. It is submitted that first Respondent officials of the vigilance department i.e. seventh to ninth Respondents informed that at the instance sixth Respondent i.e. Dr. J. Ram Mohan Rao then acting as Dy. C.M.O they have followed the instructions, acted and all such actions are done in an illegal manner. Petitioner came to know during the proceeding of the domestic enquiry that the Dr. J. Ram Mohan Rao the sixth Respondent is the cause for alleged surveillance work and also for sending an anonymous letter to the management and based on the strength of these two acts vigilance enquiry was done on Petitioner and when Petitioner objected them these Respondents made false allegations stating that Petitioner assaulted the vigilance staff and others. In fact Petitioner objected when the alleged vigilance staff started taking photographs and videos of Petitioner's wife in the shop. Petitioner also gave a police complaint on 21-07-2004 in this context. It seems the vigilance officials were implanted by the sixth Respondent for getting over their misdeeds Petitioner was falsely implicated under the company standing orders of 25.37, 25.23 and 25.19 and initiated disciplinary action by issuing a charge sheet No. BPA/Med./F/003/3050 dated 1st October, 2004. It is submitted that Petitioner submitted explanation to on 04-10-2004 as per the knowledge of facts as on that date. Respondent officials conducted domestic enquiry for more than five years and then dismissed Petitioner from service vide Ref.No.CRP/PER/IR/D/92-1996 dated 06-11-2010 with effect from 10-11-2010 without proper opportunity in departmental enquiry. Petitioner was made a scapegoat thus illegally terminated the services of the Petitioner by passing impugned dismissal order which is arbitrary. Then Petitioner preferred an appeal on 15-11-2011 to the first Respondent and the same was not disposed till date. It is submitted the domestic enquiry conducted by the first Respondent is not based on principles of natural justice and full and fair opportunity was not given to Petitioner which is evident from the proceedings of the enquiry itself. It is respectfully submitted that the dismissal/termination order. Because of the illegal acts of the first Respondent officials taking videos and photographs upset Petitioner's wife's health and she was mentally harassed and abused for no reason and it affected her health totally and Petitioner also had undergone untold misery and spend good amounts to get treated his wife with a psychiatrist and she has become normal now. The enquiry officer never allowed Petitioner to lead evidence properly in this context though Petitioner protested no appropriate steps were taken in this regard. In the mean time the Respondent management issued transfer order dated 22-07-2010 transferring Petitioner to Bhupalpally and later issued second transfer order dated 05-08-2010 to Area hospital, Ramakrishnapuram (RKP) SRP area asking this Petitioner to join by 17-08-2010. Thus exercised illegal exercise of power by alleged transfer orders culminated finally into the present dismissal order which is bad in law and unsustainable in nature. To cover up several omission and commission of the erring officials the first Respondents officials submitted documents forging the Petitioner's signatures and brought into existence certain documents and relied on them and thus adopted unheard procedure. These Respondents also violated the provisions of Section 9 A of the Industrial Disputes Act. The domestic enquiry was prolonged nearly for a period of five years to humiliate the Petitioner and made him to suffer with mental agony. No legal action was taken against the erring officials basing on legal notices issued by the Petitioner and his wife on 14-8-2004 but took action against Petitioner basing on alleged anonymous letter which has not seen the light of the day and thus adopted discriminative attitude by the management of the first Respondent between erring officials and innocent employee. The Disciplinary Authority misconstrued the entire evidence and has chosen to come to an erroneous conclusion contrary to the record, and confirmed that Petitioner has taken a private business by running a private clinic in the name of "Sambhavi Kanti Davakhana". Hence, prayed to set aside the dismissal order Ref.No.CRP/PER/IR/D/92-1996 dated 06-11-2010 with effect from 10.11.2010 and reinstate the Petitioner with back wages.

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

It is submitted that the Petitioner was appointed in the Company on 26.02.1992 as Refractionist at Collieries Main Hospital, Kothagudem. He was transferred to Area Hospital, Bellampalli during August, 1998, While working at Area Hospital, Bellampalli, he was served with a Charge-sheet No.BPAMED/F/003/ 3050, dated 01.10.2004 for misconduct under Company's Standing Orders No.25(37), 25(23) and 25(19) for running a regular private eye clinic in the name of "Sambhavi Kanti Davakhana" in Bazaar Area, Bellampalli under the guise that the said establishment

belongs to his wife and for directing the Company employees / patients from Area Hospital, Bellampalli to go to the said eye clinic for taking treatment and spectacles and also treating the patients by himself by charging fees. Further, on 21.07.2004 at about 9.00 p.m., when the officials of Vigilance Department Staff went to the Eye Clinic to enquire into the matter for running a private eye clinic and were trying to collect the evidences, he misbehaved with the Vigilance Department Staff and attempted to assault them. It is submitted that as the above act on his part has constituted misconduct under Company's Standing Orders, he was issued Charge Sheet dated 01.10.2004. The Petitioner submitted to the charge sheet which was found not satisfactory. Enquiry was ordered by appointing an enquiry officer and he conducted enquiry on various dates from 11.12.2004 to 22.06.2009 by following the principles of natural justice by giving the charged employee full and fair Opportunity to defend his case including allowing a Defense Assistant to defend his case. The enquiry proceedings were also recorded in Telugu as demanded by the Petitioner. During the enquiry, the Petitioner has fully participated. As per the report of the Enquiry Officer and the following 02 charges leveled against him under Clause 25(37) and 25(19) under Company's Standing Orders were established.

“25(37): Taking up employment with any other employer or carrying on any business or trade, without the permission of the Management.

25(19): Assault, attempt to assault, threatening to assault, abuse, a co-worker or subordinate or superior while on duty or otherwise in connection with employment.”

It is submitted that the Petitioner was supplied copies of enquiry proceedings together with findings of the enquiry report vide letter dated 13.07.2010 to enable him to make representation, if any, against the findings of the enquiry officer within 7 days of receipt of the letter. The Petitioner received the same and submitted representation dated 27.08.2010. The Disciplinary Authority after considering the domestic enquiry proceedings, representation submitted by the Petitioner has concurred with findings of the Enquiry Officer. Further, as there were no extenuating circumstances to take a lenient view it was decided to dismiss the Petitioner from service. Accordingly, the Petitioner was dismissed from service with effect from 10.11.2010 vide order No.CRP/PER/IR/D/92/1996 dated 06.11.2010. It is submitted that the act of taking up private business of running a eye clinic was established in the enquiry based on the fact that charged employee was treating the patients in the "Sambhavi Kanti Davakana" when the Vigilance Department Staff went to eye hospital on 21.07.2004 to enquire into the complaint, also examined the Vigilance Department Staff who approached him as patients. Further, his act of attacking Vigilance Staff who were deputed on official duty to enquire into the matter, was also established based on the statement of Vigilance Department Staff and this charge was also proved. The contention of the Petitioner that seventh to ninth Respondents informed that at the instance of Dr. J.Ramamohan Rao, Dy.Chief Medical Officer, Area Hospital, Bellampalli, they have followed the instructions acted and all such actions in an illegal manner is denied. Dr.J.Ramamohan Rao, Dy.Chief Medical Officer is the disciplinary authority in respect of the Petitioner employee, who has served the Charge Sheet and also caused the conduct of enquiry. The contention of the Petitioner that his wife is a qualified Optometrist and having individual Eye Clinic at Bellampalli, which is her profession or avocation, and it has nothing to do with the Petitioner activities or job is not correct. The fact that being a regular employee of the Company, the Petitioner has taken up a private business and he was treating the patients in the "Sambhavi Eye Hospital" by himself even when his wife was also not available and which fact was established by the Vigilance Department when they have visited the "Sambhavi Kanti Davakana" on 21.07.2014. It is, therefore, clearly established that the Petitioner only was running that private eye clinic. It is also submitted that the Petitioner has leveled certain allegations against the sixth Respondent in the affidavit, which are not connected to the charges leveled against the Petitioner which speaks that it is only an afterthought of the Petitioner to make allegations on the disciplinary authority for issuing him a Charge Sheet. It is submitted that the Petitioner was transferred to Bhupalpalli Area on administrative grounds during August 2010, as there was no Ophthalmologist at Area Hospital, Bhupalpalli. Subsequently, the transfer order was modified and Petitioner was transferred to Area Hospital (Ramakrishnapur), Srirampur Area by cancelling his transfer effected to Bhupalpalli Area posting him to Srirampur Area was given keeping in view that Ophthalmologists are available at Main Hospital, Kothagudem Area Hospitals of Ramagundam and Srirampur and the services of refractionist are attached to these Ophthalmologist, whereas the services of Refractionist are not required at Area Hospital. Bhupalpalli. It is submitted that full and fair opportunity was given to the Petitioner during the course of domestic enquiry. The allegation that the domestic enquiry conducted by the 4th Respondent is not based on principles of natural justice and full and fair opportunity was not given is denied. It is true that the Petitioner vide letter dated 08-12-2001 has informed/ declared his wife's qualification and her profession to the then Medical Supdt., Area Hospital, Bellampalli when the same were asked by the management. The enquiry was conducted on various dates from 11.12.2004 to 22.6.2009 and ran into 399 pages. The Enquiry Officer in his report has found the Petitioner guilty against only two charges which speaks of his unbiased and impartial attitude. The contention of the Petitioner that there is no approved transfer policy adopted by the Respondent Company is denied. It is submitted that Petitioner was transferred vide order dated 22.7.2010 and later it was modified by another order dated 5.8.2010. it is reiterated that in view of the settled law, the administrative transfer should not be interfered with and also that the enquiry against the Petitioner employee was conducted by following principles of natural justice by giving him full and fair opportunity to defend his case. Therefore, prayed to dismiss the petition.

4. The perusal of the record reveals that the domestic enquiry conducted by the Respondents in this case is held as legal and valid vide order dated 5.6.2023.

5. Both parties has submitted their respective written arguments u/s 11A of the Industrial Disputes Act, 1947.

6. On the basis of the pleadings of both parties and arguments advanced, the following points emerge for determination:-

I. Whether the Departmental Enquiry conducted against the workman is legal and valid?

II. Whether the action of Respondent Management in terminating the services of the workman Sri B. Seetharam vide order dated 6.11.2010 w.e.f. 10.11.2010 is justified?

III. To what relief is the Petitioner entitled?

Findings:-

7. **Point No.I:** The legality and validity of the departmental enquiry has been held legal and valid vide order dated 5.6.2023.

Thus, this Point is answered accordingly.

8. **Point No.II:-** It can be gathered from the record that the Petitioner who was posted as a Refractionist in the hospital of the Respondent Management was found guilty of committing misconduct under the Company's Standing Order No.25.37 and 25.19 and the Disciplinary Authority after considering the enquiry report and submissions of the Workman has passed the order dated 6.11.2010 whereby Petitioner has been dismissed w.e.f. 10.11.2010 from service. Petitioner has challenged the said order of his dismissal on number of grounds taken in the claim statement, which we will deal in the succeeding paragraphs of this order.

9. Firstly Petitioner has contended that domestic enquiry was not conducted as per principles of natural justice and the Petitioner was not permitted to adduce evidence in defence. Further, it is submitted that although Tribunal has held the enquiry as valid, but Petitioner reserved the right to question the validity of the said order if needed in future.

10. Learned Counsel for Respondent urged that the validity of domestic enquiry has been held legal and valid vide order dated 5.6.2023 by the Tribunal and that order has not been challenged by the Petitioner before any forum within limitation period. Therefore, that order holding the departmental enquiry legal and valid has got the finality.

11. Since the departmental enquiry has been held legal and valid, vide order dated 5.6.2023 by the tribunal, that has not been challenged by the Petitioner before any higher forum therefore, it has got finality. Now, the Petitioner has no claim for reserving his right to Question the validity of domestic enquiry against the provision of Law. Hence, argument of the Petitioner is untenable.

12. Secondly, Petitioner contended that the departmental enquiry against the Petitioner has been conducted by the Respondent management on the basis of anonymous letter/complaint. Whereas circular No.Vig./DPAW/KGM/2001/438 dated 16th May 2001 was circulated to all its CGMs/GMs/Chief/HODs, all Pits & Departments, Areas contains that anonymous/pseudonymous complaints not to be taken up for enquiries, as per instructions of Director (PA &W) and CEO. Therefore, the Enquiry in the present matter has been conducted in contravention of circular dated 16th May, 2001. Further, it is contended that alleged complaints were Ingu Lakshman, General Mazdoor and Muthu Rangaiah, Coal Filler, Golati I Incline, Bellampally Area but they have not been examined as a witness by the Respondent. Therefore, the whole departmental enquiry as well as the impugned order be vitiated.

13. On the other hand, Respondent Counsel contended that the disciplinary action was initiated against the delinquent Workman after receiving the complaint against him. Vigilance department staff investigated into complaint and conducted the raid on the eye Clinic "Shambhavi Kanti Dawakhana" of Petitioner on 15.12.2003 and on 21st July 2004 respectively. During said vigilance staff witnessed and found that Petitioner was examining patients in the eye clinic and was giving the prescription to them on payment of fees for the same. While Petitioner was employed in the Area Hospital of the Respondent management, he was bound by the Company's Standing Orders not to take any of the avocation without permission of Management. Moreover, vigilance personnel has been examined in support of charge as witness in the enquiry as MW1 and MW2 and they have supported the charge in their evidence. Thus, finding has been given by Enquiry Officer on the basis of evidence on record. Petitioner was found guilty of charge for Private medical practice without obtaining the permission from the Respondent management and thereby he committed misconduct under the Standing Order No.25.37 of the company.

14. In view of the submission made by the Petitioner as well as Respondent perused the record of enquiry proceeding. The record of enquiry proceeding reflects that on the basis of the complaint received against the Petitioner about his conduct of doing the private practice at his eye clinic without permission of the management, the Respondent management ordered to initiate Vigilance enquiry against Petitioner and the vigilance officials of the

Respondent company visited the Petitioner's hospital "Shambhavi Kanti Dawakhana" on 15/12/2003 and 21.7.2004 and they found that the Petitioner was examining the eye patients and was giving the prescription on payment of fees. However, Petitioner has taken the plea that his wife was running Eye Hospital in the name of Sambhavi Kanti Dawakhan and she was treating the patients as she has done course of optometry. But when vigilance Department officials Sri K. Qutubuddin, MW1 and Sri T. Rama Swamy, MW2 of the Vigilance department of the Respondent company visited Shambhavi Kanti Dawakhana on 15.12.2003 and on 21.7.2004, Petitioner's wife wasn't found there and Petitioner himself was examining the eye patients and was also taking the fees for treatment. Thus, the enquiry against Petitioner has been conducted on the basis of vigilance report and not merely on the basis of complaint. Therefore, the contention of the Petitioner that the departmental enquiry has been conducted against the Petitioner on anonymous complaint is not acceptable. Further, Petitioner has also challenged his dismissal order on the ground that vigilance staff of the Respondent company has acted with more overzealous and unbecoming manner against the Petitioner and it is alleged that they have fabricated the evidence against the Petitioner. However, Petitioner has not produced any cogent evidence to substantiate his allegation that the vigilance staff of the Respondent company was biased against the Petitioner in any manner. Therefore, making allegation of biasness without any evidence against the vigilance staff, is not sufficient to draw the inference that the disciplinary action against Petitioner has been taken by the Respondent in any prejudiced manner or in a biased manner. I found his argument without force.

16. On going material on record, I am convinced there is ample evidence against the charge sheeted employee and he was caught red-handed running eye clinic in the name of Shambhavi Kanti Dawakhana under the guise that his wife was running the hospital. Further, it is also established for the evidence on record that Vigilance officials who visited eye clinic on 15.12.2003 and 21st July 2004, found Petitioner treating the patient and taking fees and his wife was not found present there, on both the occasions when vigilance officials visited or conducted raid on the clinic. Presenting Officer Sri KBS Sagar who has deposed during the enquiry that on 15.12.2003 and 21.7.2004, vigilance team from SCCL visited at Shambhavi Kanti Dawakhana and it was found that the Petitioner, Sri B Seetharam was examining eye patient on payment of fees and his wife, was not present there. Further, Presenting Officer states that Sri. B Seetharam also caused hindrance in the work of investigation by the Vigilance staff and also intimidated them and prevented them from discharging their duties. Further Presenting Officer has also submitted documents MEX 1 to MEX 11 in evidence which corroborate the testimony of the witnesses MW1 and MW2. Further, the record of enquiry proceeding also reveals that the Respondent management in support of the charge against the Petitioner has examined witness MW1 Sri SK. Qutubuddin, Vigilance Assistant, who along with assistant has conducted raid at the eye clinic of the Petitioner and found Petitioner personally treating patients at the clinic and taking the fees.

17. Thus, from evidence on record, it is established that Petitioner was running the Sambhavi Eye Clinic under the guise of his wife. Further, this witness has deposed that on 21st July, 2004, the witness along with the staff conducted the raid along with staff, Sri K Devdas, T Ramaswamy, MZ Rahaman and G Rajesh, Driver from the vigilance department and during the raid and investigation, witness gathered information that the Petitioner Sri B Seetharam was present at the clinic and personally treating patients. His wife was not present and he was also collecting fees from patients. Further witness states that, Sri MZ Rahaman, from vigilance department, visited Sri B. Seetharam as a regular patient and B. Seetharam after giving the treatment gave him prescription slips. Further, Sri G. Rajaiah, the driver from Vigilance department also visited B Seetharam as a patient. While the witness started video recording of B. Seetharam at his clinic examining the patient, his assistant noticed and turned off the clinic's power. Thus, there is ample evidence on record that Sri B Seetharam was caught red-handed by the officials of vigilance staff at eye clinic. Further, witness states that Sri B. Seetharam also verbally abused the staff of vigilance Department and thereafter he left the clinic. He also threatened to file police complaint against the witness. Thus, this witness has also given the evidence supporting the charges against the Petitioner.

18. Moreover, MW2 Sri T. Ramaswamy, Vigilance Assistant has also given the evidence in support of the charge. The record of the enquiry proceeding reveals that petitioner was accorded fair opportunity to produce evidence in defence and he has examined himself in defence and also produced the documentary evidence. Although the management witnesses has been cross examined by charge sheeted employee at length, but nothing has been elicited in the cross examination of these witnesses to make their statement unbelievable or unworthy of evidence. Although Petitioner has taken the plea that he was not running the eye hospital and treating the patients in the clinic but his wife who was having the certificate of optometry was running the eye clinic and was treating the patients. Further, he has submitted that he used to accompany his wife to drop her on clinic and also to take home back from clinic in the evening. Therefore, he was present at the clinic and it can not be presumed that he was running the eye clinic. On perusal of the record, I am not convinced with the plea taken by the Petitioner as on both occasions of investigation/raid by the vigilance staff at the Petitioner's eye clinic his wife was not found there, attending the patients, instead, Petitioner himself was found treating the patients and charging the fees. It is unfathomable that while Petitioner was extended the fair opportunity of adducing the evidence in defence but he did not dare to examine his wife or his Assistant present at the eye clinic in defence to establish his plea that he was not running the eye clinic, instead his wife was running the clinic and treating the patients. Therefore, I am constrained to draw the conclusion that plea taken by the Petitioner is of feeble nature and untenable. Hence, on going through the record of

enquiry proceeding, I am of the firm conviction that there is ample evidence against the petitioner in support of charge under Standing Order No.25.37 and 25.19 of the company.

19. As regards the admissibility of the evidence in the case of domestic enquiry is concerned, it is settled law that once the domestic enquiry is held valid, therefore, the strict rule of Evidence Act is not applicable to such domestic enquiry.

In this context, reference of the decision of Hon'ble Supreme Court of India in the case of **State of Haryana and Anr.,vs Rattan Singh , 1977 SCC 491**, is relevant, wherein the Hon'ble Apex Court have held:-

"4. It is well settled that in a domestic Enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly. Swallow and what is, strictly speaking, not relevant under the Indian Evidence Act"

Further, it is held, "The simple point is, was there some evidence or was there no evidence not in the sense of the technical rules governing regular court proceedings but in a fair common-sense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record."

In view of the law laid down by the Hon'ble Supreme Court of India as discussed above in the instant case it is not a case of no evidence and there is ample evidence in form of oral as well as documentary and also electronic evidence of CD of videography in support of charges framed against Petitioner. Therefore, it can be safely concluded that Petitioner has been rightly held guilty in the domestic enquiry on the charges of misconduct, under Standing Order Nos.25.37 and 25.19 of Company on the basis of evidence on record.

20. Petitioner submitted that punishment imposed by way of termination of the Petitioner from service by Respondent No.1 and 2 is shockingly disproportionate to the alleged misconduct as the charges are not proved against the Petitioner and he is having a family to maintain and his Wife has suffered mental agony ill-health. Further, it is submitted that Petitioner's family is dependent on him and he is the only breadwinner and has suffered irreparable loss. Therefore, prayed for taking lenient view in imposition of punishment of dismissal.

21. As far as jurisdiction of interference in the order of punishment imposed by Disciplinary Authority is concerned, Hon'ble Apex Court has laid down principles in number of decisions extracted as below:-

In Bikaner & Jaipur Vs. Nemi Chand Nalwaya in Civil Appeal No.5861/2007 dated 1.3.2001 the Hon'ble Apex Court have held:-

"6. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic Enquiry, nor interfere on the ground that another view is possible on the material on record. If the Enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. Courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations."

In State of U.P. vs. Sheo Shanker Lal Srivastava and Others [(2006) 3 SCC 276], Hon'ble Apex Court have held:-

"the Industrial Courts or the High Courts would not normally interfere with the quantum of punishment imposed upon by the Respondent stating: "It is now well-settled that principles of law that the High Court or the Tribunal in exercise of its power of judicial review would not normally interfere with the quantum of punishment. Doctrine of proportionality can be invoked only under certain situations. It is now well-settled that the High Court shall be very slow in interfering with the quantum of punishment unless it is found to be shocking to one's conscience."

In the case of Maharashtra State Road Transport Corporation Vs. Dilip Uttam Jayabhay, the 2022 LLR page 126, wherein the Hon'ble Apex Court held:

"once the enquiry finding is held to be fair and proper, industrial Tribunal or Labour Court lacks jurisdiction to interfere with the quantum of punishment unless the same is shockingly disproportionate to the gravity of conduct."

Similarly, in the instant matter, the enquiry has been conducted by following principles of natural justice against the Petitioner and findings of the Enquiry Officer are based on evidence, the question of adequacy of the evidence will not be ground for interference in the findings of the domestic enquiry. It is not the case of "no evidence" on record

in support of charge or finding of the Enquiry Officer is perverse. In the instant case principles of natural justice has been followed by Enquiry Officer and no violation of statutory regulation has been pointed out by the Petitioner. The rule of preponderance is applicable to prove charge against delinquent employee in Departmental Enquiry. Therefore, the plea of the Petitioner that there is no ample evidence against him in support of charge in this matter is not tenable. Thus, I find no occasion to interfere in the impugned order of Disciplinary Authority of imposition of punishment of dismissal to Petitioner from service.

22. Therefore, I found no force in the argument advanced by the Petitioner. Thus, in view of fore gone discussion, I am constrained to hold that the action of the Management in terminating the services of the Petitioner vide order dated 6.11.2010 is justified.

This point is answered accordingly against the Petitioner and in favour of the management.

23. **Point No. III:** In view of the fore gone discussion and finding at Point No.I and II, the Petitioner is not entitled for any relief and his petition is liable to be dismissed as unfounded and devoid of merits.

Thus, Point No. III is answered accordingly.

AWARD

In view of the fore gone discussion and finding at Points No. I & II, I am of the considered view that the action of the Respondent in terminating the services of the Petitioner Sri B. Seetharam vide order dated 6.11.2010 with effect from 10.11.2010 is held justified. Hence, the Petitioner is not entitled to any relief as prayed for. As such, the petition filed by is devoid of merits, hence, liable to be dismissed. Therefore, the petition stands dismissed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 16th day of October, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the

Petitioner

NIL

Documents marked for the Petitioner

Witnesses examined for the

Respondent

NIL

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 4 नवम्बर, 2024

का.आ. 2052.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन, संबंधित नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. II दिल्ली के पंचाट (72/2020) प्रकाशित करती है।

[सं. एल - 39025/01/2024- आई आर (बी-II)-40]

सलोनी, उप निदेशक

New Delhi, the 4th November, 2024

S.O. 2052.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.72/2020) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court No. - II Delhi* as shown in the Annexure, in the industrial dispute between the management of Union Bank of India and their workmen.

[No. L-39025/01/2024- IR (B-II)-40]

SALONI, Dy. Director

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM – LABOUR COURT NO. II, NEW DELHI

I.D. No. 72/2020Sh. Shyoraj Sharma Vs. Union Bank**Counsels:**

For Applicant/ Claimant:

Sh. Anurag Sharma, Ld. AR.

For Management/ Respondent:

*Sh. RajatArora, Ld. AR.***AWARD**

Appropriate Government vide reference no. ND.96(40)2019-ID-FOC-DY.CLC has sent the reference to this tribunal in the following terms:

***“Whether the services of Sh. Shyoraj Sharma S/o Sh. K.P. Sharma have been terminated illegally and/or unjustifiable by the Union Bank of India, and If so, to what relief is he entitled and what directions are necessary in this respect.*”**

In pursuance of the above said reference, the claimant had appeared and filed the claim. claimant in his statement averred that he has been working at the post of helper with the respondent since 17.04.2012 at salary of Rs. 12,000/- per month. He did his work with sincerity and honesty. His job profile was to take files and documents from one table to another, bringing water to staff and cleaning. Management has not provided any legal facilities since beginning i.e. appointment letter, attendance register, casual leaves, yearly leave etc. He as usual was present on 11.03.2018 for resuming his duty but his services were terminated illegally by management without assigning any reason. He had sent the demand letter through registered post on 20.03.2018 but management did not reply. He submits that he is entitled for reinstatement with full back wages.

2. Respondent had appeared and filed the written statement. He had taken the preliminary objection that there was no employer-employee relationship between the claimant and the management; question of termination doesn't arise. No proof such as appointment letter, identity card, proof of payment of salary, termination letter etc. has been placed on record. He submits that the bank is required to follow the provision of article 14 and 16 of constitution of India in the matter of recruitment of the employees into the bank services and recruitment rules have been framed keeping in view of the constitutional mandate; claimant sought backdoor entry. The respondent has denied each and every averment made by the claimant.

3. The claimant had filed the rejoinder denying the objection taken by the management in the written statement and affirmed the averment made by him in the claim statement.

4. After completion of the pleadings, following issues were framed:

1. Whether the proceeding is maintainable.
2. Whether there exist employer and employee relationship between the management bank and the claimant.
3. Whether the claimant's service was terminated illegally, if so to what relief the claimant is entitled to.

5. Claimant in order to prove his case, had examined himself and come into witness box. He has reiterated the averment in his affidavit as mentioned in the claim statement. He has relied upon the following documents i.e. Demand notice, registry receipts, the copy of claim statement filed before the conciliation officer and copy of his pass-book. Claimant was cross-examined by the management where he stated that he was called by Sh. Vinod Sharma, manager of the bank. He had gone to the bank for opening his account in June or July 2011, on being asked by Branch Manager, he told that he was unemployed, phone numbers had been exchanged. He admitted that he had not been given any appointment letter. He was aware about the appointment process of the bank but he had been told that till he was in the bank, he will remain there. No advertisement had been issued by the bank. His age was 42 years at the time of his alleged appointment. He admitted that no entry of amount of Rs. 12,000/- was reflected in the copy of the pass-book produced by him.

6. rebuttal, respondent had examined one Dinesh Purbey. He also reiterated the averment made in the written statement/reply. He relied upon the two documents i.e. copy of the offer letter issued to an employee in the

subordinate cadre as mark A and specimen copy of the recruitment notification as mark B. Nothing substantial has been asked from the witness.

7. Counsel of the claimant had forcedly argued that there is enough entry of receiving cash in his pass-book from the site of management therefore he is able to establish the relationship of employee and employer between him and the management. He further said that management had not replied of his demand notice sent through registered post courier and the conciliation had been failed there.

8. Per contra, counsel for respondent Sh. Rajat Arora has forcedly argued that none of the documents filed or produced by the workman has established any relationship of employee and employer between the claimant and the management. Further he argued that there is a rule and regulation of appointment as mandated by the constitution of India. The management relied upon the two documents i.e. copy of the offer letter issued to an employee in the subordinate cadre and specimen copy of the recruitment notification. He submitted that in absence of any evidence produced by the claimant, no relationship of employee and employer exists. Moreover, claimant himself admitted that he had been engaged by Sh. Vinod Sharma who had no authority to appoint him. Even there is no entry of Rs. 12,000/- reflected in claimant's pass-book indicating that he had been appointed at the salary of Rs. 12,000/- per month as asserted by him.

9. In the light of above said evidence and argument discussed above, my findings on the issue are as follows:

Issue no. 1 and 2 have the bearing upon each other. If the management is able to prove that there is no relationship of employee and employer between claimant and him, naturally, the claim is not maintainable. Section 2(s) defines the workman. It reads as under:

2 [(s) "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or (iv) who, being employed in a supervisory capacity, draws wages exceeding 3 [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]

10. Now the workman claims that he is employed with the management, however, he is not able to produce any oral or documentary evidence suggesting that he had ever been employed by the management as a helper. He is not in possession of any appointment letter, termination letter, leave record etc. nor had he asked for these from the management. These documents are basically required to prove the relationship of employee and employer. However, in the absence of these documents, the workman can prove by direct or indirect evidence that he had been employed with the respondent but he has not produced any evidence herein so far from any person to prove that he had been seen there as an employee working with the management. Reflecting entry of some payment in cash in the pass-book does not create any relationship of employee and employer between them.

ORDER

In view of the above discussion, the claimant has failed to prove that he has ever been employed with the bank. Thereof, the proceeding is not maintainable, claim of the claimant is dismissed, award is accordingly passed. Copy of this award be sent to the appropriate government for notification U/S 17 of the I.D Act. File is consigned to record room.

Dated : 25.07.2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 4 नवम्बर, 2024

का.आ. 2053.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राष्ट्रीय स्वास्थ्य एवं परिवार कल्याण संस्थान, एमआई 2 सी सुरक्षा एवं सुविधाएं प्रालिमिटेड .गुड ईयर सुरक्षा

सेवा के प्रबंधन, संबंध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं **II दिल्ली** के पंचाट (120/2020, 123/2020) प्रकाशित करती है।

[सं. एल - 12025/01/2024- आई आर (बी-1)-232]

सलोनी, उप निदेशक

New Delhi, the 4th November, 2024

S.O. 2053.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.120/2020, 123/2020) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No. - II Delhi* as shown in the Annexure, in the industrial dispute between the management of National Institute of Health & Family Welfare, MI2C Security & facilities Pvt. Ltd, Good Year Security Service and their workmen.

[No. L-12025/01/2024- IR (B-I)-232]

SALONI, Dy. Director

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. No. 120/2020

Sh. Diganta Rabbha, S/o Sh. Pradip Rabbha,

C/o- All India Central PWD (MRM) Karamchari Sangathan,

House No-4823, Gali No. 13, Balbir Nagar Extension,

Shahadra, Delhi-110032.

I.D. No. 123/2020

Sh. Rajesh Kumar Jha, S/o Sh. Valmiki Jha,

C/o- All India Central PWD (MRM) Karamchari Sangathan,

House No-4823, Gali No. 13, Balbir Nagar Extension,

Shahadra, Delhi-110032.

Versus

1. The Director,

National Institute of Health & Family Welfare,

Baba Gangnath Marg, Munirka, New Delhi-110087.

2. **MI2C Security & Facilities Pvt. Ltd.**

8/40, UGF, South Patel Nagar, New Delhi-110008.

3. **Good Year Security Services,**

A-75, UGF, Sector-08, Dwarka, New Delhi-110077.

AWARD

By this composite order, I shall dispose of these two applications of U/S 2A of the **Industrial Disputes Act (here in after referred as an Act)** filed by the different claimants against the same respondents, because of having the common respondents and same cause of action, these cases are taken together for their illegal termination. Claims of the workmen are that they were appointed by the management as Security Guard through contractor w.e.f. 04.07.2012 and 15.09.2015 respectively. Management no.-1 awarded the contract to management-2 for providing the Security Guards and Supervisors for the period 01.08.2014 to 31.07.2015 which were renewed from time to time. After proper scrutiny of the contract, management-1 has again awarded the contract management-3 i.e. M/s Good Year Security Services, but this fact was concealed from workmen. Management-3 have been taken over the work from management-2 w.e.f. 16.06.2019 but this fact was also not apprised to the workmen to engage in this matter and the workmen were refused to take on duty by management-3. Workmen have made complaint before the Hon'ble Regional Labour Commissioner (C), New Delhi for redressal of their grievances i.e. reinstatement of their services in respective places. Hon'ble RLC (C) implead the party as management-3 i.e. M/s Good Year Security Services. During the pendency of the case, management-2 issued the transfer order on 20.07.2019 to the workmen for joining their duties in Jaipur so that workmen will not be able to arrange the bread and butter of their families and will surrender/resign from their respective duties which is illegal and comes under the definition of unfair labour practice. On 20.12.2019, Hon'ble RLC (C) issued the direction to the above management for making the payment to the workmen as per law. On the same date Hon'ble authority also recorded the same in the proceeding and accepted that

the above act of the management is just an exercise to escape from payment of legal dues to the workmen i.e. Notice, Notice Pay, Retrenchment compensation, gratuity, Bonus and leave encashment etc. Management-1 gave the reply of the proceedings and denied the facts of the proceedings but, management-2 & 3 never replied the same. Hence, they have filed the present claim with the prayer to reinstate them with full back wages.

W.S has been filed by the respondent-1 & 2. Management-3 has been proceeded ex-parte vide order dated 25.10.2021. Managements had denied the averment made in their claims. They had submitted that workmen's claims are totally baseless and meritless having no locus stands. Their claims are liable to be dismissed.

After completion of the pleadings, following issues have been framed vide order dated 22.02.2023 i.e. -

1. Whether the proceedings is maintainable.
2. Whether there exist employer and employee relations between R1 and claimants.
3. Whether the services of the workmen were illegally terminated by management-2 ?
4. To what relief the claimants are entitled to and from which date?
5. The benefits if permissible who would be liable to grant the same?

Now, the matters are listed for workman evidence. On behalf of management-2, **Ms. Komalpreet Kaur, AR** appeared. Claimant **AR Sh. Sunil Dutt** has submitted that claimant Sh. Rajesh Kumar Jha has been taken back on duty by management-1 through another contractor. He does not want to pursue the case. Claimant Sh. Diganta Rabbha cannot come to Delhi as he is residing in Assam so he wants to withdraw the claim.

Considering the above submission on record, I.D No. 123/2020 stands dismissed because of the fact that the claimant has been taken back on job by management-1 through another contractor as stated by claimant AR. So far so, I.D. No. 120/2020 is concerned, it also stands dismissed, considering the fact that he does not want to pursue the case further because of his difficulty in coming to Delhi. Awards are passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. Files are consigned to record room.

Date- 08.08.2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2024

का.आ. 2054.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय पटना के पंचाट (12 (C) of 2021) प्रकाशित करती है।

[सं. एल - 39025/01/2024- आई आर (बी-II)-41]

सलोनी, उप निदेशक

New Delhi, the 5th November, 2024

S.O. 2054.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 12 (C) of 2021) of the *Indus.Tribunal-cum-Labour Court Patna* as shown in the Annexure, in the industrial dispute between the management of Syndicate Bank their workmen.

[No. L-39025/01/2024- IR (B-II)-41]

SALONI, Dy. Director

ANNEXURE

Before The Presiding Officer, Industrial Tribunal, Patna.

Reference Case No.- 12 (C) of 2021

Between the management of (1) Regional Manager, Syndicate Bank, Regional Office, Maurya Lok Complex, Patna-800001 (2) Branch Manager, Syndicate Bank, Danapur Cantonment Branch, Danapur, Patna-801503 And their workman Sri Kanhai Kumar Singh, H. No. 74 Krishna Bhawan, Patna Montessori School Lane, Gandhi Nagar, Boring Road, Patna-800001.

For the management:- Sri Rajan Ghoshrahe, Advocate.

For the workman:- Sri B. Prasad, President, Bank Employees Federation, Bihar.

Present:-

Manoj Shankar
Presiding Officer,
Industrial Tribunal, Patna.

A W A R D**Patna, dt- 12th September, 2024.**

By the adjudication order no.- 1/ID(8)/2021/Dy CLC-Pt dated- 13/14.07.2021 the Govt. of India, Ministry of Labour & Employment, Office of the Dy. Chief Labour Commissioner (Central), Maurya Lok Complex, A Block, 2nd Floor, Room No.-6,16,& 17, Patna-800001 has referred under clause (d) of sub-section-(1) of Section-10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as “the Act”), the following dispute between the management of the (1) Regional Manager, Syndicate Bank, Regional Office, Maurya Lok Complex, Patna-800001 (2) Branch Manager, Syndicate Bank, Danapur Cantonment Branch, Danapur, Patna-801503 And their workman Sri Kanhai Kumar Singh, H. No. 74 Krishna Bhawan, Patna Montessori School Lane, Gandhi Nagar, Boring Road, Patna-800001 for adjudication to this tribunal:-

SCHEDULE

“Whether the action of the management of Canara Bank (before amalgamation the then Syndicate Bank), Patna Bihar, in removing the services of Shri Kanhai Kumar Singh, Temporary Attender, w.e.f. 19.02.2020 is just & proper? , if not, to what relief the workman concerned is entitled to?”

2. Briefly stated the claim of the workman Sri Kanhai Kumar Singh (Workman) is that he was orally appointed to discharge the duties of an attender (Subordinate Cadre) at the Danapur Cantonment Branch of the then Syndicate Bank now called Canara Bank after merger w.e.f. 17.06.2019 discharged the duty like opening and closing of the Bank’s gate, opening of ATM Room. He also discharged the duties of putting registers, documents at the counter and table of the staffs if and when required. He also used to take out cash from the strong room and the same he placed at cash counter. It is further alleged that he also did the duties of stitching of currency note and vouchers. Some time he also performed the duties of mails to post office and delivery of Bank’s documents. The workman also discharged the duties of the clearing cheques coming to the main branch and some times brought stationary from the stationary pool to his branch at the instruction of then branch manager. It is also asserted that the workman used to discharge his duties right from 9.30 A.M to 5.30 P.M and some times even beyond that till closure of the branch. It is further asserted that the workman used to be paid pro-rata of a permanent attender which was @ Rs. 560/- per day and the amount was credited to his Saving Bank A/C No.- 74052010037701 and 74052010038013. It is further asserted that when the workman went to perform his duties in the morning of 19.02.2020 as usual he was stopped doing any duty of the bank. It is further asserted that after termination, workman approached the management at branch level and regional level for continuation of his service but he was unheard then workman caused his grievance before the Regional Labour Commissioner (C) Patna where conciliation proceeding was held but due to non-conciliatory attitude of the management, the conciliation ended in failure then FOC was sent to the appropriate Govt. and from there this dispute is sent here to this tribunal vide a reference for adjudication. It is further asserted that since the workman worked against the permanent vacant post of attender, so his termination is covered u/s-2(OO) of the I. D. Act, 1947. It is further asserted that the duties of the workman was perennial in nature and his status was of an temporary attender so his service should have been confirmed after expiry of six month’s so management violated the provision of section-25(F) of the I.D.Act, 1947 as neither any notice nor any retrenchment compensation was given to the workman. It is also asserted that management resorted unfair labour practice as per section-25(T) of the I D. Act,1947. So the action of the management terminating the service of the workman from 19.02.2020 is neither just and proper. Thus workman seeks relief (s) :-

- (i) For his reinstatement in the service as a temporary attender with back wages;
- (ii) The workman be regularised in the service of the bank as a attender;
- (iii) Rs. 10,000/- (Rupees Ten Thousand) be awarded to the workman for contesting the dispute;
- (iv) Any other relief as tribunal deems fit and proper;

3. On the other hand the management bank filed written statement on 27.04.2022 stating therein opposite parties are the officers of the Canara Bank which is a Nationalized Bank all over India. It is further asserted that vide notification no.- G.S.R 155 dated- 04.03.2020 of the Government of India, “Syndicate Bank” have been amalgamated with Canara bank w.e.f 01.04.2020 that’s why the management (Canara Bank) is filing written statement. It is further asserted that the management denies all averments and allegations contained in the statement of claim filed by the workman side. It is further asserted that employee of the Canara Bank are broadly classified into two categories workman and officers employees. The service conditions of the workman employees are governed by Canara Bank service code which is in consonance with various Bipartite Settlement and awards settled at Industry level. It is further submitted that for the cleaning and dusting of the branches of the bank is under taken by the permanent

employees who is called as “House Keeper-cum-Peon” and some times in case of their absence branch engage persons intermittently as and when required and it is settled principles, such intermittent engagement would not create any right over the post to the person so engaged. It is further asserted that the complainant was neither the empanelled temporary attender of the Syndicate Bank, Danapur cantonment branch nor his name is reflecting in any records at the then Syndicate Bank, Regional Office, Patna. It is further asserted that the workman was engaged by the branch purely on day to day basis and he had never been appointed after following any recruitment process. He was discharged on 19.02.2020 because of the post of the permanent attender in the branch of the bank. It is further asserted that the workman was paid wages on daily basis as an when he was engaged in the branch. It is further asserted that workman has never under gone any recruitment process of the bank and he was never appointed on any regular post of the bank so there is no question of termination or retrenchment from the service and this is also held in various judgement of the Hon’ble Supreme Court. It is further asserted that on scrutinizing the documents, it is confirmed that the claimant has never participated in the procedure formation of temporary attender / PTS panel. Hence the workman is not entitled for any relief.

4. Having gone through the statement of claim and the written statement filed on behalf of the management side, the following points emerge for adjudication:-

- (i) “Whether the workman discharged his duties continuously as temporary attender from 17.06.2019 to 19.02.2020 in the Syndicate Bank (Now called Canara Bank) with the duties as described in the claim petition.
- (ii) “Whether the action of the management of Canara Bank (before amalgamation the then Syndicate Bank), Patna Bihar, in removing the services of Shri Kanhai Kumar Singh, Temporary Attender, w.e.f. 19.02.2020 is just & proper? , if not, to what relief the workman concerned is entitled to?”

5. In order to establish the claim of the workman, the workman side examined Kanhai Kumar Singh the workman himself as W.W-1 and besides oral evidence, workman side also filed some documents and gets marked as Exts as:-

- (i) Ext.-W-An application of dt- 06.06.2019 filed by the workman to the Branch Manager, Syndicate Bank, Danapur Cantt. Branch for the temporary attender.
- (ii) Ext.-W/1-An application was forwarded by the manager to the Regional Office of Syndicate Bank.
- (iii) Ext.-W/2-Statement of Bank account from the period of 21.06.2019 to 18.02.2020 i.e 11 page.

6. On the other hand management side examined altogether three witnesses who are namely Sri Ashok Kumar, retired officer of Canara Bank, (M.W-1), Sri Arun Kumar, Retired from Canara Bank, (M.W-2), and Sri Sanish Kumar, Senior Manager in Canara Bank, Ranch, Lalpur Branch, (M.W-3) besides oral evidence, management also filed document and get it marked as Exts as:-

- (i) Ext.-M- Senior Manager, General Administration Section, Regional Office II, Patna written a letter on 28.07.2020 to the Senior Manager, HOII:, HRMD, Gandhi Nagar Annex, Bengaluru regarding details of working of workman Kanhai Kumar Singh, temporary attender Danapur Cantonment Branch from the month’s of June-2019 to February-2020.

7. Now first of all this tribunal securitizes the evidence of workman first W.W-1 Kanhai Kumar Singh is the workman himself and who has deposed before this tribunal that he was doing the work of attender in Syndicate Branch of Danapur Cantonment Branch from 17.06.2019 for which he has given an application to the Branch Manager put his initial receiving the same and proved the documents marked as Ext.-W. This witness also proved the forwarding of his application by the Branch Manager to Regional Manager, Syndicate Bank as Ext.-W/1. This witness further stated that he used to come to the branch at 9.30A.M and work their till 6.30 P.M during his duty he opened the bank gate and ATM gate, cleaning of the system and counters and at the instruction of the manager took out the cash box from the vault the same he used to place of the cash counter. He also did the work of placing the registers to the counter, making bundle of vouchers but on query of this tribunal this workman categorically admitted that there was one PTS posted in the branch. This witness further stated that he was getting Rs. 560/- wages per day that was credited in his account and he further proved his statement of bank account of the period from 21.06.2019 to 18.02.2020 as Ext.-W/2. He also stated that he got cash payment from 17.06.2019 to 20.06.2019 through vouchers. This witness further stated he was doing duty like a attender. This witness further stated that when ever he was sent to the clearing house he received conveyance allowance of Rs.150/- in his account. This witness further stated that when even system did not work he received wages of 4-5 days at a time. This witness further stated that he also received bonus of Rs. 5400/- from the bank on 16.09.2019 i.e evident from his statement of his account. He further stated that when ever PTS was absent he performed his duty also and he received the payment of PTS too of the said period. This witness further stated that when he discharged his duties at the said branch as a temporary attender there was no permanent attender posted there and on 19.02.2020 manager reported him now permanent attender is posted in the bank, so you are not required to come to the branch but no notice and compensation was given to him and this witness further stated that he should be reinstated in the bank with back wages.

In cross-examination this witness categorically admitted in para-20 he has used the word engagement in his application (Ext.-W) not the word appointment. He also admits in para-21 of the cross-examination he does not know the difference between permanent attender and temporary attender but so far he knows permanent attender use to get payment once in a month and temporary attender does not get payment at monthly basis. This witness admits that in para-24 of the cross-examination he got all the payment from the bank for his duty as attender and bank made payment as per rules. In para-27 of the cross-examination this witness categorically stated that there is bank circular that the person works 90 days continuously he would be taken up as a permanent staff but he has no document as such and in para-28 of the cross-examination this witness categorically stated that this is not fact that his application(Ext.-W/1)was never forwarded by the manager but he admits the petition is without the signature of the workman and manager. This witness also admits in para-32 of the cross-examination that he has no grievance with the bank officers and he further stated this is not fact he was well aware of doing work as temporary basis.

8. Now this tribunal scrutinizes the evidence of the management side M,W-1 Ashok Kumar who is retired officer of the Canara Bank deposed before this tribunal on 09.02.2023. This witnessl stated in his examination-in-chief that he was Assistant Manager in Danapur Cantonment Branch of Syndicate Bank, (now called Canara Bank) from July 2018 to June 2019. This witness further stated that workman Kanhai Kumar Singh has given an application during his tenure for temporary daily wager that was forwarded to Regional Office but during his tenure workman Kanhai Kumar Singh not performed any duty on temporary basis.

In cross-examination this witness admits that he has been transferred to Begusarai Branch on 14.06.2019 so he can't say whether any written reply of Regional Office was received about Kanhai Kumar Singh but he admits that on 06.06.2019 workman has given written application to his branch that is marked Ext.- W. by the workman side.

9. M.W-2 Arun Kumar is also a retired bank employee of Canara Bank who stated before this tribunal that he was posted in Regional Office of Syndicate Bank from October-2018 to May 2020 but during his tenure at Regional Office, no application of Kanhai Kumar Singh was received from Danapur Cantonment Branch of Syndicate Bank. This witness further stated that no information from Danapur Cantonment Branch of Syndicate Bank was received to his Regional Office about working of Kanhai Kumar Singh has daily wager. This witness further stated that Branch Manager can engaged daily wager on requirement basis for this engagement no advertisement is required to be given. This witness further stated that Branch Manager can engage daily wager on exigency of work.

In cross-examination this witness categorically admits in para-7 he was chief manager in the Regional Office of the Syndicate Bank. In para-10 of the cross-examination this witness categorically stated that he can't say how many days Kanhai Kumar Singh worked in bank. In para-14 of the cross-examination this witness categorically proved the letter dt-06.03.2020 that was issued from the Regional Office in his signature to Kanhai Kumar Singh in connection with the letter dt- 19.02.2020 given by Kanhai Kumar Singh that is marked Ext.-W/3.

10. M.W-3 Sanish Kumar, Senior Manager of the Canara Bank, Lalpur Branch of Ranchi who deposed before this tribunal on 12.04.2023. This witness stated in examination- in – chief that he was HR Manager in the year 2019 in the Regional Office of the Canara Bank, Patna now Syndicate Bank is merged in Canara Bank. This witness further stated that cleaning work is used to performed by HKP and if the HKP is not posted in any branch, the Branch Manager can engage daily wager as per requirement for cleaning work. This witness further stated that workman Kanhai Kumar Singh never participated for PTS panel. This witness further stated that this is not fact that Regional Manager has instructed Branch Manager, Danapur Cantonment Branch not to take any work from Kanhai Kumar Singh. This witness further stated that Kanhai Kumar Singh was never in approved panel of bank. Kanhai Kumar Singh never put his attendance in attendance register. This witness further stated that Kanhani Kumar Singh never participated in any recruitment process. This witness further proved the letter of dt- 28.07.2020 that was sent to HR Head Department on the basis of the application given by Kanhai Kumar Singh in which it was reported Kanhai Kumar Singh was never in approved panel of the bank and there was no permission given by Regional Office for his engagement and payment and it is also reported payment for the engagement of the workman has been made to his account on daily basis. It is also reported the signature of workman on debit voucher is made on daily basis for his payment of wage and it is also reported since the workman was engaged on daily wages so there is no need to issue prior notice and proved the letter as the Ext.-M.

In cross-examination this witness categorically admits in para-15 that on the basis of representation of workman the report was given to the HR Head Department about the attendance of workman. In apra-18 this witness admits that in banking industries there is three categories of workman, part time workman, permanent workman and temporary workman. In para-20 of the cross-examination this witness categorically stated that workman Kanhai Kumar Singh was never called for empanelment. In para-25 of the cross-examination this witness categorically stated that workman has worked in bank from June-2019 to February 2020 and during that period there was no HKP or permanent attender posted in Danapur Cantonment Branch. In para-32 of the cross-examination this witness categorically stated that the workman has daily wager not as temporary attender. In para-35 of the cross-examination this witness categorically stated that no notice or compensation was given to the workman because he was daily wager.

11. It is argued from the workman side that workman Kanhai Kumar Singh discharged the duties of a attender in Danapur Cantonment Branch of Syndicate Bank from 17.06.2019 to 18.02.2020 and he was getting @ Rs. 560/- per

day for his wages that was credited in S.B Account that is evident from the statement of bank account (Ext.-W/2) but he was stopped from working on 19.02.2020 without giving prior notice and notice pay this termination is covered u/s-2(OO) of the I.D.Act. Workman Kanhai Kumar Singh has thoroughly supported his claim of his working in his evidence he has filed his application to the Branch Manager, Syndicate Bank, Danapur Cantonment Branch on 06.06.2019 for the engagement as temporary attender that was received by the then Branch Manager (Ext.-W). It is further argued that the duties of the workman was perennial in nature but his services was discontinued, by the bank disclosing him permanent attender has been posted now. So this is a violation of section-25(T) of the I.D.Act. It is also argued that the application of workman Kanhai Kumar Singh received by Branch Manager on 06.06.2019 was forwarded to the Regional Office that is Ext.-W/1. It is further argued that under the instruction of Regional Office Kanhai Kumar Singh started working in the Danapur Cantonment Branch as temporary attender for which he was paid by bank on prodata basis of the permanent attender. Since workman was duly engaged by the bank so he should be reinstated by the bank and further to regularise his service.

12. On the other hand it is argued by the learned counsel of the management bank that Kanhai Kumar Singh was engaged in the Danapur Cantonment Branch of syndicate Bank as a daily wager on requirement basis for which he was duly paid. It is further argued that workman Kanhai Kumar Singh was never empanelled in the list of the bank and workman never participated in the recruitment process rather Danapur Cantonment Branch on exigency of work engaged the workman as daily wager this is duly reported by Senior Manager, Head Office of HR Bengaluru on 28.07.2020 on the basis of representation given by Kanhai Kumar Singh and it was categorically reported that Kanhai Kumar Singh was not in approved panel of the bank and there was no permission given by the Regional Office for his engagement and he was paid in his account on the daily basis and also disclosed about his working from June-2019 to February 2020 that shows that he was engaged by the Danapur Cantonment Branch total 180 days only and finally he was disengaged on 19.02.2020 because permanent attender was posted there and this is duly supported and corroborated by the all three witnesses produced by the management that was purely engaged on exigency of work as daily wager and he was never participated in recruitment process and when the permanent attender is posted in the said branch there was no requirement for his service as a daily wager thus bank has not violated any provision of the I.D.Act and moreover, the workmans claim his application was forwarded by the Branch Manager to the Regional Manager is incorrect because the Ext.-W/1 as placed by the workman bears no signature of the Branch Manager accordingly it appears a prepared document placed by the workman side that is exposed by Ext.-M placed by the management side so management action for removing the services of Kanhai Kumar Singh from 19.02.2020 is just and proper.

13. Considering all the facts and materials available on the record as discussed above and considering the submissions as advanced on behalf of both the sides, this tribunal finds that the workman Kanhai Kumar Singh raised his dispute before the conciliation officer for terminating his services by the management bank from 19.02.2020 without any notice or retrenchment compensation and so action of the management is improper and on just when his dispute was not settled before the conciliation officer the reference was sent by the appropriate government to this tribunal to adjudicate whether the action of the management of Canara Bank in removing the services of Kanhai Kumar Singh temporary attender from 19.02.2020 is just and proper? This tribunal further finds that workman Kanhai Kumar Singh deposed before this tribunal and supported he has worked as a temporary attender from 06.2019 to 19.02.2020 Danapur Cantonment Branch of Syndicate Bank and he discharged various kinds of duty from 9.30 A.M to 5.30 P.M and he was paid @ Rs. 560/- per day and the amount was credited in his account. This facts is also duly admitted by the management side that workman Kanhai Kumar Singh was engaged by the Danapur Cantonment Branch from June—2019 to February 2020 as a daily wager and for which he was duly paid on daily basis. This tribunal further finds that the workman duly admits in his evidence that bank has made payment of his wages. It shows that there is no dispute about the payment of his daily wage further there is no dispute on this fact that workman Kanhai Kumar Singh has discharged his duties from 17.06.2019 to 19.02.2020 only that shows that he has worked only 180 days in total as daily temporary attender for which he was duly paid and this is duly proved by the management vide its Ext.-M in which all details has been reported by the Regional Office, Patna to the Head Office, HR Department Bengaluru regarding the engagement of Kanhai Kumar Singh by Danapur Cantonment Branch on daily wage and the break up of the working of Kanhai Kumar Singh of each months is also shown and bank has also reported that there was no permission given by the Regional Office to the Branch for the engagement of workman. Rather Danapur Cantonment Branch has engaged Kanhai Kumar Singh on exigency of the work and bank has very honestly reported Kanhai Kumar Singh was not in approved panel of the bank and there was no need of prior notice because he was engaged on daily wage basis and when permanent staff was posted there then Kanhai Kumar Singh was disengaged from 19.02.2020. This tribunal further finds that the Ext.-M as placed by the management side is not countered by the workman either by oral or documentary evidence, so his claim he should be reinstated and further he should be regularised in the service of bank is not acceptable at all under the provision of the I.D.Act because workman Kanhai Kumar Singh was purely engaged as a daily wager. Of course his payment was made by the Danapur Cantonment Branch in the S.B Account of the workman showing at a temporary attender but on that very basis workman claims he is entitled for reinstatement is not just and proper because workman Kanhai Kumar Singh was not engaged for one year continuously in the calendar year before his terminating date- 19.02.2020 rather workman Kanhai Kumar Singh was engaged for only 17.06.2019 to 19.02.2020 so his claim he was terminated by the

bank without prior notice is not acceptable at all because there is no violation of section-25(F) of the I.D.Act unless a workman has been engaged in continuous service for more than 240 days in a calendar year. Here in the instant case Kanhai Kumar Singh has discharged his duties only 180 days from June-2019 to Feb.2020. So he never discharged duties in the management bank 240 days in continuation in a calendar year that is condition precedent for issuance of notice preceding the termination of any workman.

14. Thus on scanning all the materials available on the record as discussed above, this tribunal finds and hold that workman Kanhai Kumar Singh has been failed to establish that he was ever engaged in continuation of his service for more than 240 days in a calendar year preceding his disengagement date 19.02.2020 in the management bank and on the other hand management bank has thoroughly established that workman Kanhai Kumar Singh was engaged purely as a daily wager by the Danapur Cantonment Branch of Syndicate Bank on exigency of the work and when permanent staff posted at that branch. Kanhai Kumar Singh was disengaged, this is duly established by the management bank through oral and documentary evidence. Thus this tribunal finds and hold that action of the management of Syndicate Bank (before amalgamation the then Syndicate Bank) Patna in removing the service of Kanhai Kumar Singh from 19.02.2020 is just and proper and so this is the considered opinion of this tribunal that workman Kanhai Kumar Singh is not entitled for any relief. This award is effected after date of publication in gazette.

This is my award accordingly.

Dictated & Corrected by me.

Date : 12.09.2024

MANOJ SHANKAR, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2024

का.आ. 2055.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पाटिल रेल इन्फ्रास्ट्रक्चर प्रा. लिमिटेड के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई-II के पंचाट (28/2015) प्रकाशित करती है।

[सं. एल - 41012/14/2015- आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 5th November, 2024

S.O. 2055.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.28/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Mumbai -II* as shown in the Annexure, in the industrial dispute between the management of Patil Rail Infrastructure Pvt. Ltd. and their workmen.

[No. L-41012/14/2015- IR (B-I)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

SHRIKANT K. DESHPANDE

Presiding Officer

REFERENCE NO.CGIT-2/28 of 2015

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

PATIL RAIL INFRASTRUCTURE PVT. LTD.

The Managing Director,

Patil Rail Infrastructure Pvt. Ltd.

Udvada (R.S.)

Dist. Valsad, Gujarat – 396 185

FIRST PARTY

AND

THEIR WORKMEN.

Shri Santosh Damodar Mestry,
D/08 Triveni Sangam Society, Gundvali Hill,
Andheri East,
Mumbai – 400 069

SECOND PARTY**APPEARANCES:**

First Party : Mr. Umesh Tiwari
Advocate
Second Party : Mr. R. D. Bhat
Advocate

AWARD**(Delivered on 24-07-2024)**

This Reference has been made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, vide Government of India, Ministry of Labour & Employment, New Delhi, order No. L-41012/14/2015 – IR (B-I) dated 21.04.2015. The terms of reference given in the schedule are as follows:

SCHEDULE

“Whether the action of the management of M/s. Patil Rail Infrastructure Pvt. Ltd. Valsad, Gujarat in terminating the services of Shri Santosh Damodar Mestryw.e.f. 02.07.2013 without complying various provisions of the law under Industrial Dispute Act, 1947, is just and legal? If not, what relief the workman is entitled to?”

2. According to the Second party, he joined the services of the First Party Company on 01.01.2010 as temporary employee then he was appointed on probation w.e.f. 01.05.2010. He was given designation as “Liaison Officer” but work done by him was clerical nature. He had no powers whatsoever. No persons were working under him and after considering the work and conduct, he was designated as Executive R & M and B.D. – (M-11) with total emoluments of Rs. 15,680/- per month.

The Second Party added that, without any written intimation the company stopped giving work to him from 07.03.2013, he enquired to the General Manager to whom he was reporting and he was informed that, the work will be given to him however except promises and assurances work was not given to him. The Second Party further added that, he was bound by Model Standing Orders as per Central Rules and not by appointment order. As per Model Standing Orders the Company required to give one month notice before termination or to follow the prescribed provisions of Section 25-F & 25-G of Industrial Disputes Act. Even as per appointment order 3 months prior notice was required to be given but there is no compliance as such the termination is illegal. The Second Party also added that, he studied up to 10th std., he tried to obtain alternate employment therefore not in gainful employment, thus the Second Party prays for the relief of reinstatement with continuity of service alongwith all benefits w.e.f. 02.07.2013 and request to answer the Reference in affirmative.

3. The First Party Company resisted the statement of claim by reply Ex-10, the First Party contended that, the Second Party joined the Company on 01.01.2010 on temporary basis then appointed on probation of 6 months. He was the temporary workman of the company, working as a “Liaison Officer” and as a Liaison Officer he used to approach the Government Railway Office/ Premises for filling the tender in the name of company, he was taking decision, mentioning the rates in tender on behalf of the company and his decisions were binding on the company as such the Second Party is not a “workman” as defined u/s. 2 (s) of the I.D. Act and the Court has no jurisdiction to entertain the matter.

The First Party Company further contended that, the Second Party was not their employee therefore the applicability of the Model Standing Order does not arise at all. The Second Party himself stopped reporting for work of the company, hence there is no termination nor retrenchment much less illegal as alleged. The First Party denied that, the Second Party tried to obtain alternate employment. Lastly the First Party urged that, the Second Party failed to justify the demand therefore not entitled for relief as prayed and ultimately prayed that, the Reference be answered in the negative.

4. My Learned Predecessor framed the issues at Ex-7. I have re-arranged & rewarded the Reasons to them are as below:

| Sr. No. | Issues | Findings |
|---------|---|----------|
| | Whether the Second Party workman proves that, he is a workman | |

| | | |
|----|--|---------------|
| 1. | under the definition of Industrial Disputes Act 1947? | Yes. |
| 2. | Whether the First Party Company proves that, the Second Party workman has abandoned the services of the First Party Company? | No. |
| 3. | Whether the Second Party workman proves that, his services are illegally terminated by the First Party Company? | Yes. |
| 4. | Whether the Second Party entitled for reinstatement with continuity of service and full back wages w.e.f. 02.07.2013? | Yes, Partly. |
| 5. | What order? | As per Award. |

REASONS

5. In support of claim, the Second Party submitted an affidavit (Ex-10) in lieu of examination in chief of Santosh Damodar Mestry (himself), subjected himself for cross examination. Whereas the First Party Company submitted an affidavit Ex-12 in lieu of examination in chief of Mahesh Haddiguddi, General Manager of the First Party Company, subjected him for cross examination. Perused the written notes of arguments submitted by both the Parties. Heard the Mr. R.D. Bhatt Advocate for the Second Party and inspite of opportunity none present for the First Party.

6. **Issue No. 1-** It is worthwhile to mention here that, It is contended on behalf of the First Party that, the Second Party was working as a “Liaison Officer”, he used to approach the Government Office for filing the tender in the name of company, mentioning the rates in tenders on behalf of the company and decision taken by him was binding on the company. The total emoluments of the Second Party workman was Rs. 15,680/- and the post on which the Second Party was promoted i.e., Executive R & M and B.D. – (M-11) is a post of Managerial nature therefore Second Party is not a ‘workman’ as defined under the ID Act 1947.

As against this, it is submitted on behalf of the Second Party that, though the designation of Liaison Officer was given to the Second Party, the actual work done by him was clerical in nature, he had no powers whatsoever and no persons were working under him. Though his designation was as Executive R & M and B.D. – (M-11) his total emoluments was Rs. 15,680/-. He was reporting to Mr. Mahesh Haddiguddi as such he is a ‘workman’ as defined under the ID Act.

7. After careful scanning the respective pleadings of the Parties in the light of oral as well as documentary evidence of the Parties, it has come on record that, the Second Party was initially appointed as a temporary employee on 01.01.2010, then he was appointed on probation by order dated 01.05.2010 and he was given the work of “Liaison Officer”. The Second Party stated on oath before the court that, though the designation was as a “Liaison Officer” he was doing a work of clerical nature. Whereas the First Party pleaded in the reply that, the Second Party was not permanent employee and as a “Liaison Officer” the Second Party was taking the decisions on behalf of the company, those were binding on the company and he was submitting tenders in the name of company.

It will not be out of place to mention here that, during proceedings the Second Party was fully cross-examined by the Counsel for the First Party however except the suggestion that, the appointment was as a “Liaison Officer” nothing has been brought on record in respect of work performed by the Second Party as Liaison Officer and as Executive R & M and B.D. Moreover the witness of the First Party fairly admitted in cross-examination that, the tenders are generally signed by him in the capacity of General Manager, the Second Party has no authority to act on behalf of the First Party Company in any manner and the Second Party was reporting to him. The First Party miserably failed to establish before the Court about the work performed by the Second Party as a “Liaison Officer” as well as Executive R & M and B.D., as such it is very difficult to accept that, the work performed by the Second Party as a “Liaison Officer” and Executive R & M and B.D. were supervisory or managerial in nature as such it can be safely said that, the Second Party workman is a “workman” under the definition of the Industrial Disputes Act 1947, Hence I answer this issue in the affirmative.

8. **Issue No. 2 & 3-** Both these issues are inter-related therefore answered together.

According to the Second Party, his services were terminated by the First Party w.e.f. 07.03.2013, whereas the First Party alleged that, the Second Party abandoned the services of the First Party. The term ‘abandonment of service’ and ‘termination of service’ both are parallel and result of both is same i.e. out of employment. In earlier the employee stop going to work, whereas in later the employers stop giving work to the employee. So let us consider whether the Second Party abandoned the services of the First Party or First Party terminated the service of the Second Party.

It is worthwhile to mention here that, though the First Party alleged about abandonment of service by the Second Party, however the First Party nowhere pleaded in the reply that, since when the Second Party stopped reporting for work, what efforts made by him for securing the presence of the Second Party, who was working as a "Liaison Officer" and Executive R & M and B.D., since more than three years in the company. Not only this but, the First Party could not brought anything about the intention of the Second Party regarding leaving job through his cross-examination. In fact abandonment of service needs to be established by conduction of enquiry, admittedly no enquiry was conducted against the Second Party and in absence of efforts taken by the First Party in securing the presence of the Second Party, it will be unsafe to say that, the Second Party voluntarily abandoned the services of the First Party.

Once it is established that, there is no abandonment of service by the Second Party then the case certainly falls under termination of service of the Second Party by the First Party. On careful perusal of the copies of appointment orders available on record it seems that, on the basis of interview dated 30.04.2010, the Second Party was appointed as a "Liaison Officer" by order dated 01.05.2010. The appointment of the Second Party was on probation of one year and it further reveals that, by order dated 07.07.2011 i.e. after more than one year, the Second Party was promoted as Executive R & M and B.D. – (M-11) w.e.f. 01.04.2011 i.e. certainly after completion of probation period and it is clear that Clause of the Appointment letter dated 01.05.2010, remained unchanged. It certainly goes to show that, the Second Party workman was Permanent employee of the First Party.

Needless to say that, as per appointment order, The Company reserves the rights to terminate the services without assigning any reason by giving three months notice in writing or three months salary in lieu thereof. Admittedly at the time of termination no such notice of three months was given to the Second Party as such the termination of the Second Party is contrary to the appointment order.

Similarly, as observed earlier that, the Second Party completed his probation period of one year then his services are certainly governed by the Standing Orders and as per the Standing Orders notice of one month is necessary before terminating the services. The First Party did not issue any one month notice to the Second Party before termination therefore the termination of the Second Party is in violation of the Standing Orders also.

Not only this but, the Second Party was in continuous service of the First Party since 2010 to 2013 i.e. more than 240 days, as such it was obligatory on the part of the First Party to comply with the necessary provisions of Section 25-F & 25-G of the Industrial Disputes Act, while terminating the services of the Second Party. In the case in hand, the Second Party was not given one month notice nor notice pay in lieu of notice and retrenchment of compensation and in absence of that, the termination of the Second Party is also in violation of the provisions of Section 25-F & 25-G of the Industrial Disputes Act. In brief the services of the Second Party workman are illegally terminated by the First Party Company. Hence I answer these issues accordingly.

9. Issue No. 4- Once it is established that, the alleged termination of the Second Party is illegal then it is liable to be set aside and the Second Party workman is certainly entitled for relief of reinstatement with continuity of service with full back wages.

It is pertinent to note here that, the Second Party has specifically pleaded in the statement of claim that, he studied upto 10th standard, tried to obtain alternate employment therefore he was not in gainful employment, During cross-examination it has come on record that, the mother of the Second Party is living with him, he is residing in Mumbai on monthly rent of Rs. 11,000/-. True it is that, the First Party could not bring any substantial material on record in respect of the gainful employment of the Second Party however considering the fact that, he is staying in rented premises and paying Rs. 11,000/- per month it means he had some source of income after his termination therefore instead of full back wages, the Second Party is entitled for relief of the reinstatement with continuity of service with 50% back wages from the date of termination till reinstatement. Hence I answer this issue partly in affirmative.

In the result, I proceed to pass the following Award-

ORDER

1. The Reference is answered partly in affirmative.
2. The First Party Company is directed to reinstate the Second Party workman with continuity of service with 50% back wages w.e.f. 02.07.2013 till reinstatement within the period of two months from the date of publication of Award.
3. Parties to bear their own cost.
4. The copy of the Award be sent to the Government.

Date: 24-07-2024

SHRIKANT K. DESHPANDE, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2056.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स सेलेबी ग्राउंड हैंडलिंग दिल्ली प्राइवेट लिमिटेड, आयात बिल्डिंग-2, अंतर्राष्ट्रीय कार्गो टर्मिनल, आईजीआई एयरपोर्ट, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री कमलेश कुमार, कामगार, द्वारा -सेलेबी कर्मचारी यूनियन, बीटीआर भवन, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 52 of 2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-199-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2056.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 52 of 2019) of the **Central Government Industrial Tribunal cum Labour Court –II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s. CELEBI Ground Handling Delhi Pvt. Ltd., Import Building-2, International Cargo Terminal, IGI Airport, New Delhi, and, Shri Kamlesh Kumar, Worker, Through- CELEBI Employees Union, BTR Bhawan, New Delhi**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-199-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.-II, NEW DELHI

ID.No. 52/2019

Sh. Kamlesh Kumar, S/o Sh. Ram Karan.,

Through- CELEBI Employees Union, BTR Bhawan,

13-A, Rouse Avenue, New Delhi-110002.

VERSUS

M/s. CELEBI Ground Handling Delhi Pvt. Ltd.

Import Building-2, International Cargo Terminal,

IGI Airport, New Delhi-110037.

AWARD

This is an application of **U/S 2A of the Industrial Disputes Act (here in after referred as an Act)** filed by the claimant. Claimant had stated in his claim statement that he had been working with the respondent since 10.02.2017 on the post of U/H and his last drawn wages was Rs. 13,500/-. He had been performing his duties with sincerity, diligence, devotion and dedication since his appointment. He has unblemished and meritorious service record since his employment with management and he never gave any chance of complaint to the management. Workman had joined the trade union in order to get the legal and statutory benefits. The management got annoyed with the workman hence, management was looking for the ways to victimize the workman. It is submitted that one such opportunity came into the hands of the management when the workman demanded from the management for leave to attend the marriage of his brother-in-law fixed for 31.10.2017. He had sought leave for two days on account of the marriage of his brother-in-law, but the management declined to grant him leave. When the workman reported to attend his duties on 03.11.2017 after attending the said marriage function the management did not allow him to attend his duties and illegally terminated from his services without informing the workman about his fault and giving any sort of opportunity to enquire against his illegal termination. The management has neither served one month notice to the workman nor paid any amount for the notice pay as per the provisions of Section 25-F of the Industrial Disputes Act, 1947. On dated 04.11.2017 the management official Sh. Harmeet Singh, HR Executive called the workman to discuss and sort out the issue. But instead of resolving the issue, he blocked entry of the workman into the premises by detaining his entry pass. Sh. Harmeet Singh again called the workman on 07.11.2017 and asked him to sign on some papers on the wrong pretext. When the workman later came to know that those papers were actually his resignation papers which were got signed by keeping the workman in dark. The management has misled the workman and took away his job illegally, unjustifiably and by unfair labour practice. The management has not issued any show cause/charge sheet to the workman. Management has also detained personal entry pass of the workman which was meant for the security purpose. He had many times verbally asked the officials of the management about the reason for his detention, but, no clear answer was given to him. On 18.12.2017 he had sent the notice to the management but,

the management did not reply. They have gone to the conciliation officer, but no result was yielded. Hence, has filed the present claim with the prayer to reinstate him with full back wages. He is unemployed since the date of termination from their services.

Management had filed the W.S vide order dated 31.05.2019. He had denied the averment made in the claim statement. He submits that claim is not maintainable and is bad in law and is liable to be dismissed.

After completion of the pleadings following issues have been framed vide order dated 16.08.2019 i.e.-

1. Whether the proceeding is maintainable.
2. Whether the service of the workman was terminated illegally by the management.
3. Whether the workman had voluntarily resigned from service.
4. To what relief the workman is entitled to.

Now, the matter is listed for cross-examination of the workman. Claimant has not been appearing for cross-examination since long, inspite of providing a number of opportunities.

In these circumstances, when the claimant has not been appearing since long to substantiate his claim, it appears that he is not interested to pursue his case. His claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 23-08-2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2057.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेकॉन लिमिटेड, नॉर्थ टॉवर, स्कोप मीनार, लक्ष्मी नगर डिस्ट्रिक्ट सेंटर, नई दिल्ली; ओरियन सिक्योरिटी सॉल्यूशंस प्राइवेट लिमिटेड, शाहपुर जाट, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री कुलदीप, कामगार, द्वारा-दिल्ली प्लम्बर अलाइड इंडस्ट्रियल वर्कर्स यूनियन, गोविंद पुरी एक्सटेंशन मेन रोड कालकाजी, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 55 of 2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-198-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2057.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 55 of 2020) of the **Central Government Industrial Tribunal cum Labour Court –II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Mecon Ltd., North Tower, Scope Minar, Laxmi Nagar District Center, New Delhi ;Orion Security Solutions Pvt. Ltd., Shahpur Jat, New Delhi, and, Shri Kuldeep, Worker, Through- Delhi Plumber Allied Industrial Workers Union, Govind Puri Exten. Main Road Kalkaji, New Delhi**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-198-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. No. 55/2020**Sh. Kuldeep, S/o Sh. Dheeraj Singh,**

R/o-12/1, Gadhi Mendu Bhajanpura, Delhi-110053.

Through- Delhi Plumber Allied Industrial Workers Union,1770/8, 3rd Floor, Govind Puri Exten. Main Road Kalkaji,

New Delhi-110019.

Versus**1. Mecon Ltd.**13th & 15th Floor, North Tower, Scope Minar,

Laxmi Nagar District Center, New Delhi- 110092.

2. Orion Security Solutions Pvt. Ltd.5-E, 1st Floor, Jungi House, Street No. 5,

Near BSES Power Station, Shahpur Jat.

AWARD

This is an application of **U/S 2A of the Industrial Disputes Act (here in after is referred as an Act)** filed by the claimant for his illegal termination. Claimant had stated in his claim statement that he had been working with the respondent-1 through respondent-2 since 01.01.2010 at the post of Security Guard at the last drawn salary of Rs. 13,900/- Per month. Management-2 is the false contractor created by management-1 in violation of contract labour **(Regulation and Abolition) Act 1970**. Workman service record is clean and he has not given any complaint so far. During the service, management had obtained his signature on blank papers and have not been providing any legal facilities i.e. appointment letter, Leave Book, bonus, overtime, weekly and events holidays etc. Management got annoyed with the demands raised by the claimants had thrown them out from the service of the management on 09.11.2017. He had tried to take back his service but failed. He had sent the complaint to the labour commissioner, but, it has yielded no result. Hence, He has filed the present claim.

Management-1 had appeared and filed the WS vide order dated 05.07.2022. Management-2 had not been appearing since. He had been proceeded ex-parte on the same date i.e. 05.07.2022. M-1 denied the averment made in the claim statement and stated that claim is liable to be dismissed.

After completion of the pleadings following issues have been framed vide order dated 17.01.2023 i.e. -

1. Whether the proceeding is maintainable.
2. Whether there exist employer and employee relationship between the claimant and the management-1.
3. Whether the service of the claimant was illegally terminated by the management-1 and management-2.
4. To what relief the claimant is entitled to and from which date.

Now, the matter is listed for workman evidence. He is required to file the affidavit. Despite, providing a number of opportunities, workman has not been appearing since long to substantiate his claim.

In these circumstances, when the claimant is not interested in pursuing the claim. His claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 14.08.2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2058.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एरिया बिल्डिंग एडमिनिस्ट्रेशन कॉम्प्लेक्स, सफदरजंग एयरपोर्ट, नई दिल्ली; एनी टाइम सिक््योरिटी सर्विसेज, तुगलकाबाद एक्सटेंशन, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री रविंदर सिंह, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 57 of 2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-197-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2058.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 57 of 2022) of the **Central Government Industrial Tribunal cum Labour Court – II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Area Building Administration Complex, Safdarjung Airport, New Delhi ;Any Time Security Services, Tughlakabad Extension, New Delhi,, and, Shri Ravinder Singh, Worker**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-197-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE**BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI****ID.No. 57/2022****Sh. Ravinder Singh, S/o Sh. Ram Niwas Singh,**

R/o C-128, Through- Sh. Ravi Gujjar, Kotla Gaon,

New Dlehi-110091.

Through-Lok Mazdoor Sangthan,

B-58/456, Rama Road, New Delhi-110015.

VERSUS1. **Area Building Administration Complex,**

Safdarjung Airport, New Delhi-110003.

2. **Any Time Security Services,**

TA-91, Basement, Main Okhla Road,

Tughlakabad Extension, New Delhi-110019.

AWARD

This is an application of U/S 2A of the Industrial Disputes Act (here in after referred as an Act). Claimant had stated in his claim statement that he had been working with the respondent as a Security Supervisor w.e.f. 05.06.2017 and he has been paid wages month and his last drawn salary were Rs. 10,500/- per month. He had been doing his work with diligently with the management. During service tenure, workman has not been issued any appointment letter neither by the management-1 nor the management-2. The workman has not been paid minimum wages as prescribed by the Government of India i.e. Rs. 17,991/- but, he was paid to workman Rs. 10,500/- only. The workman demanding legal facilities and arrears from 01.04.2020 to 30.09.2020 orally to the management. For that, the management got annoyed and terminated the services of the workman w.e.f. 11.10.2020 without assigning any valid reason. The action of the management in terminating the services of the workman is illegal, bad, unjust and malafide. In case of retrenchment no seniority list was displayed and no notice was given, no notice pay was either offered or paid to the workman at the time of termination of his services. He has sent the legal demand notices dated 17.09.2020 was served upon the management, and a reply has been received but the management never take back on duty to the workman and it presumed that demand has been rejected. He had exhausted legal remedy i.e. going to the conciliation officer, but, no result was yielded. Hence he has filed the claim.

Management-1 & 2 had appeared and filed their respective WS. They had denied the averment made in the claim statement. They submit that claim of the claimant is liable to be dismissed.

After completion of the pleadings following issues have been framed vide order dated 10.01.2023 i.e.-

1. Whether the proceeding is maintainable.
2. Whether there exist employer and employee relationship between management no. 1 i.e. Area Building Administration Complex Safdarjung Airport and the claimant.
3. Whether the service of the claimant has been illegally terminated by M-2.
4. Whether the claimant has received full and final settlement from M2 and refused the offer of re-employment.
5. To what relief the claimant is entitled to.

Now, the matter is listed for workman evidence. Claimant has not been appearing since long. He has not brought any evidence i.e. documents and oral to substantiate his claim, inspite of providing a number of opportunities. In these circumstances, when the claimant has not been appearing since long to substantiate his claim, it appears that he is not interested to pursue his case. His claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 28-08-2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2059.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विदेश सेवा संस्थान, विदेश मंत्रालय, बेर सराय, नई दिल्ली; कम्पास इंडिया सपोर्ट सर्विसेज प्राइवेट लिमिटेड, पूर्व में विपुल फैसिलिटी मैनेजमेंट प्राइवेट लिमिटेड, फेज-1, गुडगांव; एस.के. फैसिलिटी मैनेजमेंट सर्विसेज प्राइवेट लिमिटेड, गुडगांव, हरियाणा, के प्रबंधन के संबद्ध नियोजकों और श्री मनोज कुमार एवं 18 अन्य, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 67 of 2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-196-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2059.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 67 of 2015) of the **Central Government Industrial Tribunal cum Labour Court – II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Foreign Service Institute, Ministry of External Affairs, Ber Sarai, New Delhi ; Compass India Support Services Pvt. Ltd. Formerly Known as Vipul Facility Management Pvt. Ltd., Phase-1, Gurgaon; S.K. Facility Management Services Pvt. Ltd., Gurgaon, Haryana, and, Shri Manoj Kumar & 18 others , Workers**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-196-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

ID. No. 67/2015

Sh. Manoj Kumar & 18 Workmen,

C/o 1800/9, Govindpuri Extension,

Main Road, Kalkaji,

New Delhi-19.

Versus

**1. Foreign Service Institute,
Ministry of External Affairs,
Baba Gang Nath Marg,
Old JNU Campus, Ber Sarai,
New Delhi-110067.**

**2. Compass India Support Services Pvt. Ltd.
Formerly Known as Vipul Facility Management Pvt. Ltd.**

17, 1st Floor, Vipul Square,
Sushant Lok, B-Block, Phase-1
Gurgaon-122002.

3. S. K. Facility Management Services Pvt. Ltd.

E-215, Sushant Lok-1,
Gurgaon, Haryana.

AWARD

Sh. P. K. Venu Gopal, Desk Officer, GOI has sent the reference to this tribunal in regard to 19 workmen (including Manoj Kr.) for adjudication with the following words:

“Whether the action of the management of Foreign Service Institute (FSI) in not regularizing the employment of 19 workmen (Manoj Kumar and 18 others as per the list attached with Annexure A) engaged through reportedly sham and camouflage contractors namely M/s Compass India Support Services Pvt. Ltd. is illegal and unjustified and whether the said workmen are entitled to receive pay at parity with regular employees of that management of concur from their respective date of appointment? If not, what relief the workmen are entitled to ?”

After receiving the reference, notice was issued to both the parties. Workman had filed the written statement of claim. They were working with the management-1 since their respective initial date of joining. Respondent-2 is a sham contractor, who had issued identity card to the workmen. It is further the case of the claimants that the management-2 has sub-leased their contract to management-3. They have been deprived from legitimate legal facilities. Their jobs were perennial in nature. Services records of the workmen were clean. Since their initial appointment, management got some blank papers/proformas signed from the workmen. Demand notice were issued to the management. Management had not replied. They have been terminated on 10.06.2013 by way of oral refusal of duties and withheld their earned wages. Claimants had sent several complaints through union. Union as such had submitted that they be reinstated with full back wages.

Respondent-1 had filed the WS. He had denied the employer and employee relationship between them and the claimants. He submits that claims of the claimants qua him be dismissed. Right of other respondent to file the WS have been closed vide order dated 05.05.2016.

After completion of the pleadings following issues have been framed vide order dated 01.02.2017 i.e.-

1. Whether the action of the management of Foreign Services Institute (FSI) is not regularizing the employment of 19 workmen (Manoj Kumar and 18 others as per the list attached with Annexure A) engaged through reportedly sham and camouflage contractors namely M/s Compass India Support Services Pvt. Ltd. is illegal and unjustified ? If so its effect?
2. Whether the said workmen are entitled to receive pay at parity with regular employees of the management of concur from their respective date of appointment? If so its effect?
3. To what relief the workman is entitled to and from which date?

Neither the workman nor the management-1 had not brought any evidence to substantiate their claim in counter-defence. Workmen affidavit was expunged vide order dated 24.08.2022 as he has not come for cross-examination. Management had not led any evidence.

In these circumstances, when the claimants have not led any evidence, their claims are resulted into failure. Their claims stand dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 04-09-2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2060.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स सेलेबी ग्राउंड हैंडलिंग दिल्ली प्राइवेट लिमिटेड, आयात बिल्डिंग-2, अंतर्राष्ट्रीय कार्गो टर्मिनल, आईजीआई एयरपोर्ट, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और आई.डी. संख्या 132/2022 श्रीमती सोनल कौशिक, आई.डी. संख्या 133/2022 श्री इशान्त गर्ग, आई.डी. संख्या 134/2022 श्री कपिल कुमार, आई.डी. संख्या 135/2022 श्री अनमोल गुप्ता, आई.डी. संख्या 136/2022 श्री दिनेश चंद्र, द्वारा - द्वारा - भारतीय राष्ट्रीय प्रवासी श्रमिक संघ, गोविंद पुरी एक्सटेंशन मेन रोड, कालकाजी, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 132 of 2022, 133 of 2022, 134 of 2022, 135 of 2022, 132 of 2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-200-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2060.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 132 of 2022, 133 of 2022, 134 of 2022, 135 of 2022, 132 of 2022) of the **Central Government Industrial Tribunal cum Labour Court –II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Telecom Regulatory Authority of India, Mahanagar Doorsanchar New Delhi ;The CEO, Huawei Telecommunication (India) Pvt. Ltd., Mohan Co-Operative Industrial Estate, New Delhi, and, I.D. No. 132/2022 Smt. Sonal Kaushik, I.D. No. 133/2022 Shri Ishant Garg, I.D. No. 134/2022 Shri Kapil Kumar, I.D. No. 135/2022 Shri Anmol Gupta, I.D. No. 136/2022 Shri Dinesh Chander, Worker, Through- Through- Indian National Migrant Worker's Union, Govind Puri Extn. Main Road, Kalkaji**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-200-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. No. 132/2022

Smt. Sonal Kaushik, W/o SH. Pankaj,

R/o-1164, Sector-19, Faridabad, Haryana-121002.

I.D. No. 133/2022

Sh. Ishant Garg, S/o Sh. Narender Garg,

R/o-C1/17, Near MC Bharti School, Sanjay Enclave,

Uttam Nagar, New Delhi-110059.

I.D. No. 134/2022

Sh. Kapil Kumar, S/o Late Sh. Roshan Singh,

R/o-28, 11-J Near Park, PGIMS Campus,

Rohtak, Haryana-124001.

I.D. No. 135/2022

Sh. Anmol Gupta, S/o Late Sh. R.K. Gupta,

R/o- B-175, 02nd Floor, B-Block, Lajpat Nagar-01,

New Delhi-110024.

I.D. No. 136/2022

Sh. Dinesh Chander, S/o Sh. Kewala Nand Bhagat,

R/o 193-194, 03rd Floor, G-30, Sector-03, Rohini,

New Delhi-110085.

Through- Indian National Migrant Worker's Union,

1770/8, 3rd Floor, Govind Puri Extn. Main Road, Kalkaji,

Versus

1. **Telecom Regulatory Authority of India,**
Mahanagar Doorsanchar Bhawan, Jawahar Lal Nehru Marg,
Next to Zakir Hussain College, New Delhi-110002.
2. **The CEO, Huawei Telecommunication (India) Pvt. Ltd.,**
A-16, Mohan Co-Operative Industrial Estate,
New Delhi-110044.

Appearance:-

For Claimants : Sh. Rakesh Sharma, Ld. AR

For Management: None for M-1

Sh. Anurag Lakhota and Sh. Mohit Sehrawat, Ld. AR's for M-2

AWARD

These are five applications of **U/S 2A of the Industrial Disputes Act (here in after is referred as an Act)** filed by the different claimants for their illegal termination.

Counsel of the workmen submits that he wants to withdraw the present claims. His statement is recorded separately.

In view of the above submission made by AR of the claimants, these claims stand dismissed as withdrawn. Awards are accordingly passed. A copy of this award is sent to appropriate government for notification under section 17 of the I.D. Act. Files are consigned to record room.

Date: 02-09-2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2061.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वोडाफोन आइडिया लिमिटेड, ए-19 मोहन को-ऑपरेटिव इंडस्ट्रियल एस्टेट मथुरा रोड, नई दिल्ली; निदेशक, गैप टेलीसर्विसेज प्राइवेट लिमिटेड, डी-33 हस्तसाल विहार, उत्तम नगर, नई दिल्ली; निदेशक, एसडीएच नेटवर्क प्राइवेट लिमिटेड, डी-78 हस्तसाल विहार, उत्तम नगर, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री शहादत हुसैन, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 193/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-203-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2061.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 193/2022) of the **Central Government Industrial Tribunal cum Labour Court –II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Vodafone Idea Ltd., A-19 Mohan Co-operative Industrial Estate, Mathura Road, New Delhi ; The Director, Gapp Teleservices Pvt. Ltd., D-33 Hastsal Vihar, Uttam Nagar, New Delhi; The Director, SDH Network Pvt. Ltd., D-78 Hastsal Vihar, Uttam Nagar, New Delhi, and, Shri Shahadat Hussain, Worker**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-203-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI**I.D. No. 193/2022****Sh. Shahadat Hussain, S/o Sh. Mohd. Taha,**

R/o- 1562, Housing Bord Colony, Sector-29,

Faridabad, Haryana-121008.

Through- Indian National Migrant Worker's Union,1770/8, 03rd Floor, Govind Puri Extn. Main Road Kalkaji,

New Delhi-110019.

Versus**1. Vodafone Idea Ltd.,**

A-19 Mohan Co-operative Industrial Estate

Mathura Road, New Delhi-110044.

2. The Director, Gapp Teleservices Pvt. Ltd.,

D-33 Hastal Vihar, Uttam Nagar, New Delhi-110059.

3. The Director, SDH Network Pvt. Ltd.,

D-78 Hastal Vihar, Uttam Nagar,

New Delhi-110059.

*Appearance:-**For Claimants : Sh. Rakesh Sharma, Ld. AR.**For Management : Sh. Anurag Kumar for the management-1.***AWARD**

This is an application of U/S 2A of the **Industrial Disputes Act (here in after is referred as an Act)** filed by the claimant for his illegal termination. Claimant had stated in his claim statement that he had been working with the respondent-1 through respondent-2 and respondent-3 since 08.02.2018 at the post of OFC Executive at the last drawn salary of Rs. 38,200/- Per month. Management-2 & 3 are the false contractor created by management-1 in violation of **CONTRACT LABOUR (REGULATION AND ABOLITION) ACT 1970** nor the Government has registered the respondent No. 2 under the said Act nor any contractor has any license to work **M/s VODAFONE IDEA LTD.** has any contract made between the employer and the contractor is false (**SHAM**) and (**CAMOUFLAGE**). Workman service record is clean and he has not given any complaint so far. During the service, management had obtained his signature on blank papers and has not been providing any legal facilities i.e. appointment letter, Leave Book, bonus, overtime, weekly and events holidays etc. Management got annoyed with the demands raised by the claimants had thrown them out from the service of the management on 09.11.2017. He had tried to take back his service but failed. He had sent the complaint to the labour commissioner, but, it has yielded no result. Hence, He has filed the present claim.

Management-1 had appeared and stated that the matter has been settled between the contractor and the workman and he had paid the amount in full and final settlement.

Workman has not been appearing since long. Workman AR submits that the workman is not in touch with him.

In these circumstances, when the claimant is not interested in pursuing the claim, this tribunal has no option except to pass the no dispute award. No Dispute Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 02-09-2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2062.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय भारोत्तोलन महासंघ, टोडापुर गांव, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री ऋषि पाल, द्वारा - दिल्ली मजदूर यूनियन, अजमेरी गेट, दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 247 of 2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-201-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2062.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 247 of 2019) of the **Central Government Industrial Tribunal cum Labour Court –II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation **Indian Weightlifting Federation, Todapur Village, New Delhi, and, Shri Rishi Pal, Worker, Through - Delhi Mazdoor Union, Ajmeri Gate, Delhi**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-201-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. NO. 247/2019

Sh. Rishi Pal, S/o Sh. Chanderpal Singh,

Through-Delhi Mazdoor Union,

5239, Ajmeri Gate, Delhi-110006.

Versus

1. **Indian Weightlifting Federation,**

WZ-78, 1st Floor, Todapur Village,

New Delhi-110012.

Appearance:

For Claimants : None

For Managements : None

AWARD

This is an application U/S 2A of the Industrial Disputes Act (here in after referred as an Act) filed by the claimant for his illegal termination. Claim of the claimant is that he was appointed by the management on the post of Office Assistant on 27.02.2004 and his last drawn wages was Rs. 12,713/- per month. The management has not given the appointment letter to him. He has been doing his duty with diligently and honestly and did not give any chance to the management for any complaint. The management did not provide the legal facility of Appointment letter, minimum wages, House Rent Allowances, Pay Slip, Causal Leave, Leave Encashment, Conveyance Allowances etc. to him. When the workman demanded the same, the management got annoyed with him and the management has started to get rid to him, but failed and on 23.01.2019 the management has illegally terminated the workman from his services, without paying the earned wages for the month of January, 2019, and without any rhyme or reason to workman. On 18.02.2019, the workman had sent a demand notice to the management through his Union, but the management neither given any reply nor reinstated to workman on duty. The workman had filed a complaint before the ALC, Central Jeevandeep Building, New Delhi against the management but, it was resulted into failure. Hence, he filed the present claim.

Respondent has not been appearing since long. Management's right to file W.S had been closed because of its non-appearance in 2021. Issues have not been framed. Thereafter the matter was listed for workman evidence. Despite providing a number of opportunities, no one has been appearing on behalf of the claimant to substantiate his claim.

In these circumstances, when the claimant is not interested in pursuing his claim. His claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 23rd October, 2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2063.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रजिस्ट्रार, दिल्ली विश्वविद्यालय (डीयू), विश्वविद्यालय परिसर, दिल्ली; प्रबंध निदेशक, नरेंद्र एंटरप्राइजेज, शक्ति नगर, दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्रीमती फूल मणि, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 267 of 2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-190-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2063.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 267 of 2019) of the **Central Government Industrial Tribunal cum Labour Court – II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Registrar, University of Delhi (DU), University Campus, Delhi; The Managing Director, Narender Enterprises, Shakti Nagar, Delhi, and, Smt. Phool Mani, Worker**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-190-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. NO. 267/2019

Smt. Phool Mani, W/o Sh. Prem Singh,

R/o- 27/49, Bengali Colony, A-1, Sant Nagar,

Burari, Delhi-110084.

Versus

- The Registrar, University of Delhi (DU),**
University Campus, Near New Administrative
Block, Delhi-110007.
- The Managing Director,**
Narender Enterprises,
26/18, Shakti Nagar, Delhi- 110007.

Appearance:

For Claimants : None

For Managements : Sh. Rakshit Rai (Proxy) for M-1.

AWARD

This is an applications **U/S 2A of the Industrial Disputes Act (here in after referred as an Act)** filed by the claimant for her illegal termination. Claim of the claimant is that she was employed as a Sanitation Worker (Safai Karmachari) by management no. 1 since 2008. She has remained in continuous, uninterrupted service for around 11

years with management-1. Work performed by the workman is perennial in nature. She has been doing her duty with diligently and honestly and did not give any chance to the management for any complaint. The last drawn salary of the claimant was credited into his bank accounts by the M-1. Since December 2018, her wages has been reduced to Rs. 13,350 p.m. from Rs. 15,070/- p.m. without any prior notice. On 31.12.18 he along with other terminated workmen made a representation before the Provost, North East students House for women, University of Delhi to revise the wages cut of Rs. 1720 p.m. They have met the provost of the hostel and the M-2 for numerous times to revise the deduction in their wages but the administration was adamant in their stand and did not revise their wages and management got furious with the claimant and threatened to terminate the services. On 13.05.2019 the claimant along with other terminated workmen made a representation to the Assistant Labour Commissioner, Chief Labour Commissioner (Central), New Delhi and before the Hon'ble Labour Minister of India, to revise the deduction in their wages. On 31.07.2019 respondents terminated the services of the claimant without any prior notice from the premises of respondent-1. After her illegal termination she is jobless. Hence, he filed the present claim.

Respondent-2 was proceeded ex-parte vide order dated 11.02.2020. Respondent-1 had filed the WS and denied the relationship of employer and employee between the management and the workmen.

In the absence of the claimant, vide order dated 23.08.2022 following issues has been framed i.e.:

1. Whether the proceeding is maintainable.
2. Whether there exists employer and employee relationship between the claimant and management-1.
3. Whether the contract between management-1 and 2 was sham and intended to camouflage the legal rights of the claimant.
4. Whether the service of the claimant was illegally terminated by the management-1.
5. To what relief the claimant is entitled to.

Now, the matter is listed for workman evidence. She is required to file her affidavit. Despite, providing a number of opportunities, workman has not been appearing since long to substantiate her claim.

In these circumstances, when the claimant is not interested in pursuing her claim. Her claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 19th September, 2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2064.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रजिस्ट्रार, दिल्ली विश्वविद्यालय (डीयू), विश्वविद्यालय परिसर, दिल्ली; प्रबंध निदेशक, नरेंद्र एंटरप्राइजेज, शक्ति नगर, दिल्ली, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती इंदर, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 268 of 2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-191-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2064.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 268 of 2019) of the **Central Government Industrial Tribunal cum Labour Court – II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Registrar, University of Delhi (DU), University Campus, Delhi; The Managing Director, Narender Enterprises, Shakti Nagar, Delhi, and, Smt. Inder, Worker**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-191-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

ID. NO. 268/2019

Smt. Inder, W/o Sh. Leelu,

R/o- N-71/A-451, Old Chandrawal, Civil Line S.O.,

Delhi-110054.

Versus

1. **The Registrar, University of Delhi (DU),**
University Campus, Near New Administrative
Block, Delhi-110007.
2. The Managing Director,
Narender Enterprises,
26/18, Shakti Nagar, Delhi- 110007.

Appearance:

For Claimants : None

For Managements : Sh. Rakshit Rai (Proxy) for M-1.

AWARD

This is an applications **U/S 2A of the Industrial Disputes Act (here in after referred as an Act)** filed by the claimant for her illegal termination. Claim of the claimant is that she was employed as a Sanitation Worker (Safai Karmachari) by management no. 1 since 2009. She has remained in continuous, uninterrupted service for around 11 years with management-1. Work performed by the workman is perennial in nature. She has been doing her duty with diligently and honestly and did not give any chance to the management for any complaint. The last drawn salary of the claimant was credited into his bank accounts by the M-1. Since December 2018, her wages has been reduced to Rs. 13,350 p.m. from Rs. 15,070/- p.m. without any prior notice. On 31.12.18 he along with other terminated workmen made a representation before the Provost, North East students House for women, University of Delhi to revise the wages cut of Rs. 1720 p.m. They have met the provost of the hostel and the M-2 for numerous times to revise the deduction in their wages but the administration was adamant in their stand and did not revise their wages and management got furious with the claimant and threatened to terminate the services. On 13.05.2019 the claimant along with other terminated workmen made a representation to the Assistant Labour Commissioner, Chief Labour Commissioner (Central), New Delhi and before the Hon'ble Labour Minister of India, to revise the deduction in their wages. On 31.07.2019 respondents terminated the services of the claimant without any prior notice from the premises of respondent-1. After her illegal termination she is jobless. Hence, he filed the present claim.

Respondent-2 was proceeded ex-parte vide order dated 11.02.2020. Respondent-1 had filed the WS and denied the relationship of employer and employee between the management and the workmen.

In the absence of the claimant, vide order dated 23.08.2022 following issues has been framed i.e.:

1. Whether the proceeding is maintainable.
2. Whether there exists employer and employee relationship between the claimant and management-1.
3. Whether the contract between management-1 and 2 was sham and intended to camouflage the legal rights of the claimant.
4. Whether the service of the claimant was illegally terminated by the management-1.
5. To what relief the claimant is entitled to.

Now, the matter is listed for workman evidence. She is required to file her affidavit. Despite, providing a number of opportunities, workman has not been appearing since long to substantiate her claim.

In these circumstances, when the claimant is not interested in pursuing her claim. Her claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 19th September, 2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2065.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रजिस्ट्रार, जवाहरलाल नेहरू विश्वविद्यालय, न्यू महरौली रोड, नई दिल्ली; मैक्स मेंटेनेंस लिमिटेड, मयूर विहार फेज-III, दिल्ली; सुदर्शन फैसिलिटीज प्राइवेट लिमिटेड, मदनगीर, दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री गोविंद कुमार, कामगार, अखिल भारतीय जनरल कामगार यूनियन, जहांगीरपुरी, दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 268 of 2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-202-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2065.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 268 of 2022) of the **Central Government Industrial Tribunal cum Labour Court –II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Registrar, Jawaharlal Nehru University, New Mehrauli Road, New Delhi; Max Maintenance Ltd., Mayur Vihar Phase-III, Delhi; Sudarshan Facilities Pvt. Ltd., Madangir, Delhi, and, Shri Govind Kumar, Worker, Through-All India General Kamgar Union, Jahangirpuri, Delhi**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-202-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

ID.No. 268/2022

Sh. Govind Kumar, S/o Sh. Jiya Lal,

Through-All India General Kamgar Union

C-90-Z, DDA Flats Jahangirpuri, Delhi-110033.

VERSUS

1. The Registrar,

Jawaharlal Nehru University,

New Mehrauli Road, New Delhi-110067.

2. Max Maintenance Ltd.,

C-05/99-100, New Kondili,

Mayur Vihar Phase-III, Delhi-110096.

3. Sudarshan Facilities Pvt. Ltd.,

18, Local Shopping Centre, 2nd Floor,

Madangir, Delhi-110062.

AWARD

This is an application of U/S 2A of the Industrial Disputes Act (here in after referred as an Act). Claimant had stated in his claim statement that he had been working with the respondent-1 at the post of Sanitation worker since several years through various sham and bogus contractors. He has been in continuous, uninterrupted service for more than two years with the respondent-1 and he was also issued identity card of several so-called contractors. The tenure of the employment for all the service years has been more than 240 days per year. The period of the workman is also same as permanent worker. He used to mark his attendance every day in the register placed in the office of Section Officer (officer-in-charge) of every hostel. The workman was given the superficial designation of supervisor. He had

been doing his work with diligently and honestly performing his duties as assigned by the concerned officials of the respondent-1 despite difficulties, workplace challenges and non-payment of various statutory dues. He has also been working even during the COVID-19 pandemic and performed excellent duties for respondent-1. Workman through their union has raised various issues regarding labour law violations before the appropriate authority and as well as the management. Respondent has repeatedly engaged in unfair labour practices such as threatening the workers for participating in union activities and raising genuine grievances before the respondents. Respondent-3 on the explicit directions of the respondent-1 forced the worker to sign a performa which made it obligatory for a worker to not join any union but, the claimant objected to his proforma and asked the workers to refrain from signing such a document which is completely illegal. The workman was actively involved in mobilizing the workers working in the respondent-1 premises and have protested many times against unfair labour practices happening in the university. Due to these activities, he was threatened multiple times by the JNU administration for termination of his services. Claimant had also filed an application before Dy. CLC (Central) raising his grievances, of non-payment of wages, unfair labour practices, threat of termination and other issues, and the workmen also who were employed in the same category of work. The claimant was illegally terminated by the respondent after the application filed by the workman. The termination of the services of the workmen is completely arbitrary, illegal and without profound logic. He is jobless and facing financial difficulties. He has gone to the conciliation officer, but, no result was yielded. Hence he has filed the claim with the prayer to reinstate him in same position.

Management-1 had appeared and filed the WS. Both management-2 &3 have not appeared despite being served. Management-1 had denied the averment made in his claim statement. He submits that claim of the claimant is not maintainable and is liable to be dismissed.

Now, the matter is listed for filing of rejoinder against W.S of management-1. Claimant has not been appearing since long for filing rejoinder.

In these circumstances, when the claimant has not been appearing since long to substantiate his claim, it appears that he is not interested to pursue the case. This tribunal has no option except to pass the no disputant award. No dispute award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 06/08/2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2066.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रजिस्ट्रार, दिल्ली विश्वविद्यालय (डीयू), विश्वविद्यालय परिसर, दिल्ली; प्रबंध निदेशक, नरेंद्र एंटरप्राइजेज, शक्ति नगर, दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री जॉनी, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 269 of 2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-192-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2066.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 269 of 2019) of the **Central Government Industrial Tribunal cum Labour Court – II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Registrar, University of Delhi (DU), University Campus, Delhi; The Managing Director, Narender Enterprises, Shakti Nagar, Delhi, and, Shri Johnney, Worker**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-192-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

ID. NO. 269/2019**Sh. Johney, S/o Sh. Elam Singh,**

R/o-A-28, Street No. 11, Bhajanpura Garhi Mandu,

Harijan Basti Shahdara, Delhi-110053.

Versus**1. The Registrar, University of Delhi (DU),**

University Campus, Near New Administrative

Block, Delhi-110007.

2. The Managing Director,**Narender Enterprises,**

26/18, Shakti Nagar, Delhi- 110007.

*Appearance:**For Claimants : None**For Managements : Sh. Rakshit Rai (Proxy) for M-1.***AWARD**

This is an applications **U/S 2A of the Industrial Disputes Act (here in after referred as an Act)** filed by the claimant for his illegal termination. Claim of the claimant is that he was employed as a Sanitation Worker (Safai Karmachari) by management no. 1 since 2008. He has remained in continuous, uninterrupted service for around 11 years with management-1. Work performed by the workman is perennial in nature. He has been doing his duty with diligently and honestly and did not give any chance to the management for any complaint. The last drawn salary of the claimant was credited into his bank accounts by the M-1. Since December 2018, his wages has been reduced to Rs. 13,350 p.m. from Rs. 15,070/- p.m. without any prior notice. On 31.12.18 he along with other terminated workmen made a representation before the Provost, North East students House for women, University of Delhi to revise the wages cut of Rs. 1720 p.m. They have met the provost of the hostel and the M-2 for numerous times to revise the deduction in their wages but the administration was adamant in their stand and did not revise their wages and management got furious with the claimant and threatened to terminate the services. On 13.05.2019 the claimant along with other terminated workmen made a representation to the Assistant Labour Commissioner, Chief Labour Commissioner (Central), New Delhi and before the Hon'ble Labour Minister of India, to revise the deduction in their wages. On 31.07.2019 respondents terminated the services of the claimant without any prior notice from the premises of respondent-1. After his illegal termination he is jobless. Hence, he filed the present claim.

Respondent-2 was proceeded ex-parte vide order dated 11.02.2020. Respondent-1 had filed the WS and denied the relationship of employer and employee between the management and the workmen.

In the absence of the claimant, vide order dated 23.08.2022 following issues has been framed i.e.:

1. Whether the proceeding is maintainable.
2. Whether there exists employer and employee relationship between the claimant and management-1.
3. Whether the contract between management-1 and 2 was sham and intended to camouflage the legal rights of the claimant.
4. Whether the service of the claimant was illegally terminated by the management-1.
5. To what relief the claimant is entitled to.

Now, the matter is listed for workman evidence. He is required to file his affidavit. Despite, providing a number of opportunities, workman has not been appearing since long to substantiate his claim.

In these circumstances, when the claimant is not interested in pursuing his claim. His claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 19th September, 2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2067.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रजिस्ट्रार, दिल्ली विश्वविद्यालय (डीयू), विश्वविद्यालय परिसर, दिल्ली; प्रबंध निदेशक, नरेंद्र एंटरप्राइजेज, शक्ति नगर, दिल्ली, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती मुन्नी देवी, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 270 of 2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-193-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2067.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 270 of 2019) of the **Central Government Industrial Tribunal cum Labour Court – II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Registrar, University of Delhi (DU), University Campus, Delhi; The Managing Director, Narender Enterprises, Shakti Nagar, Delhi, and, Smt. Munni Devi, Worker**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-193-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. NO. 270/2019

Smt. Munni Devi, W/o Sh. Ram Khilari,

R/o- N-64/170, Indra Basti, Timarpur, Civil Lines,
Delhi-110054.

Versus

- The Registrar, University of Delhi (DU),**
University Campus, Near New Administrative
Block, Delhi-110007.
- The Managing Director,**
Narender Enterprises,
26/18, Shakti Nagar, Delhi- 110007.

Appearance:

For Claimants :None

For Managements : Sh. Rakshit Rai (Proxy) for M-1.

AWARD

This is an applications **U/S 2A of the Industrial Disputes Act (here in after referred as an Act)** filed by the claimant for her illegal termination. Claim of the claimant is that she was employed as a Sanitation Worker (Safai Karmachari) by management no. 1 since 2002. She has remained in continuous, uninterrupted service for around 17 years with management-1. Work performed by the workman is perennial in nature. She has been doing her duty with diligently and honestly and did not give any chance to the management for any complaint. The last drawn salary of the claimant was credited into his bank accounts by the M-1. Since December 2018, her wages has been reduced to Rs. 13,350 p.m. from Rs. 15,070/- p.m. without any prior notice. On 31.12.18 he along with other terminated workmen made a representation before the Provost, North East students House for women, University of Delhi to revise the wages cut of Rs. 1720 p.m. They have met the provost of the hostel and the M-2 for numerous times to revise the deduction in their wages but the administration was adamant in their stand and did not revise their wages and management got furious with the claimant and threatened to terminate the services. On 13.05.2019 the claimant

along with other terminated workmen made a representation to the Assistant Labour Commissioner, Chief Labour Commissioner (Central), New Delhi and before the Hon'ble Labour Minister of India, to revise the deduction in their wages. On 31.07.2019 respondents terminated the services of the claimant without any prior notice from the premises of respondent-1. After her illegal termination she is jobless. Hence, he filed the present claim.

Respondent-2 was proceeded ex-parte vide order dated 11.02.2020. Respondent-1 had filed the WS and denied the relationship of employer and employee between the management and the workmen.

In the absence of the claimant, vide order dated 23.08.2022 following issues has been framed i.e.:

1. Whether the proceeding is maintainable.
2. Whether there exists employer and employee relationship between the claimant and management-1.
3. Whether the contract between management-1 and 2 was sham and intended to camouflage the legal rights of the claimant.
4. Whether the service of the claimant was illegally terminated by the management-1.
5. To what relief the claimant is entitled to.

Now, the matter is listed for workman evidence. She is required to file her affidavit. Despite, providing a number of opportunities, workman has not been appearing since long to substantiate her claim.

In these circumstances, when the claimant is not interested in pursuing her claim. Her claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 19th September, 2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2068.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रजिस्ट्रार, दिल्ली विश्वविद्यालय (डीयू), विश्वविद्यालय परिसर, दिल्ली; प्रबंध निदेशक, नरेंद्र एंटरप्राइजेज, शक्ति नगर, दिल्ली, के प्रबंधतंत्र के संबद्ध नियोजकों और श्री हरि प्रकाश, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 271 of 2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-194-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2068.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 271 of 2019) of the **Central Government Industrial Tribunal cum Labour Court – II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Registrar, University of Delhi (DU), University Campus, Delhi; The Managing Director, Narender Enterprises, Shakti Nagar, Delhi, and, Shri Hari Prakash, Worker**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-194-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. NO. 271/2019

Hari Prakash, S/o Sh. Dhan Prakash,

R/o-B-130, Sangam Park, R.P. Bagh,

Delhi-110009.

Versus

1. **The Registrar, University of Delhi (DU),**
University Campus, Near New Administrative
Block, Delhi-110007.
2. The Managing Director,
Narender Enterprises,
26/18, Shakti Nagar, Delhi- 110007.

Appearance:

For Claimants :None

For Managements : Sh. Rakshit Rai (Proxy) for M-1.

AWARD

This is an applications **U/S 2A of the Industrial Disputes Act (here in after referred as an Act)** filed by the claimant for his illegal termination. Claim of the claimant is that he was employed as a Sanitation Worker (Safai Karmachari) by management no. 1 since 2008. He has remained in continuous, uninterrupted service for around 11 years with management-1. Work performed by the workman is perennial in nature. He has been doing his duty with diligently and honestly and did not give any chance to the management for any complaint. The last drawn salary of the claimant was credited into his bank accounts by the M-1. Since December 2018, his wages has been reduced to Rs. 13,350 p.m. from Rs. 15,070/- p.m. without any prior notice. On 31.12.18 he along with other terminated workmen made a representation before the Provost, North East students House for women, University of Delhi to revise the wages cut of Rs. 1720 p.m. They have met the provost of the hostel and the M-2 for numerous times to revise the deduction in their wages but the administration was adamant in their stand and did not revise their wages and management got furious with the claimant and threatened to terminate the services. On 13.05.2019 the claimant along with other terminated workmen made a representation to the Assistant Labour Commissioner, Chief Labour Commissioner (Central), New Delhi and before the Hon'ble Labour Minister of India, to revise the deduction in their wages. On 31.07.2019 respondents terminated the services of the claimant without any prior notice from the premises of respondent-1. After his illegal termination he is jobless. Hence, he filed the present claim.

Respondent-2 was proceeded ex-parte vide order dated 11.02.2020. Respondent-1 had filed the WS and denied the relationship of employer and employee between the management and the workmen.

In the absence of the claimant, vide order dated 23.08.2022 following issues has been framed i.e.:

1. Whether the proceeding is maintainable.
2. Whether there exists employer and employee relationship between the claimant and management-1.
3. Whether the contract between management-1 and 2 was sham and intended to camouflage the legal rights of the claimant.
4. Whether the service of the claimant was illegally terminated by the management-1.
5. To what relief the claimant is entitled to.

Now, the matter is listed for workman evidence. He is required to file his affidavit. Despite, providing a number of opportunities, workman has not been appearing since long to substantiate his claim.

In these circumstances, when the claimant is not interested in pursuing his claim. His claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 19th September, 2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2069.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रजिस्ट्रार, दिल्ली विश्वविद्यालय (डीयू), विश्वविद्यालय परिसर, दिल्ली; प्रबंध निदेशक, नरेंद्र एंटरप्राइजेज, शक्ति नगर,

दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्रीमती नीलू तनुट बाई, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 272 of 2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 05.11.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-195-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2069.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 272 of 2019) of the **Central Government Industrial Tribunal cum Labour Court – II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Registrar, University of Delhi (DU), University Campus, Delhi; The Managing Director, Narender Enterprises, Shakti Nagar, Delhi, and, Smt. Neelu Tanut Bai, Worker**, which was received along with soft copy of the award by the Central Government on 05.11.2024.

[No. L-42025/07/2024-195-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. NO. 272/2019

Smt. Neelu Tanut Bai, W/o Sh. Suresh,

R/o- 27/49, Bengali Colony, A-01, Sant Nagar Burari,
Delhi-110084.

Versus

- The Registrar, University of Delhi (DU),**
University Campus, Near New Administrative
Block, Delhi-110007.
- The Managing Director,**
Narender Enterprises,
26/18, Shakti Nagar, Delhi- 110007.

Appearance:

For Claimants : None

For Managements : Sh. Rakshit Rai (Proxy) for M-1.

AWARD

This is an applications **U/S 2A of the Industrial Disputes Act (here in after referred as an Act)** filed by the claimant for her illegal termination. Claim of the claimant is that she was employed as a Sanitation Worker (Safai Karmachari) by management no. 1 since 2010. She has remained in continuous, uninterrupted service for around 11 years with management-1. Work performed by the workman is perennial in nature. She has been doing her duty with diligently and honestly and did not give any chance to the management for any complaint. The last drawn salary of the claimant was credited into his bank accounts by the M-1. Since December 2018, her wages has been reduced to Rs. 13,350 p.m. from Rs. 15,070/- p.m. without any prior notice. On 31.12.18 he along with other terminated workmen made a representation before the Provost, North East students House for women, University of Delhi to revise the wages cut of Rs. 1720 p.m. They have met the provost of the hostel and the M-2 for numerous times to revise the deduction in their wages but the administration was adamant in their stand and did not revise their wages and management got furious with the claimant and threatened to terminate the services. On 13.05.2019 the claimant along with other terminated workmen made a representation to the Assistant Labour Commissioner, Chief Labour Commissioner (Central), New Delhi and before the Hon'ble Labour Minister of India, to revise the deduction in their wages. On 31.07.2019 respondents terminated the services of the claimant without any prior notice from the premises of respondent-1. After her illegal termination she is jobless. Hence, he filed the present claim.

Respondent-2 was proceeded ex-parte vide order dated 11.02.2020. Respondent-1 had filed the WS and denied the relationship of employer and employee between the management and the workmen.

In the absence of the claimant, vide order dated 23.08.2022 following issues has been framed i.e.:

1. Whether the proceeding is maintainable.
2. Whether there exists employer and employee relationship between the claimant and management-1.
3. Whether the contract between management-1 and 2 was sham and intended to camouflage the legal rights of the claimant.
4. Whether the service of the claimant was illegally terminated by the management-1.
5. To what relief the claimant is entitled to.

Now, the matter is listed for workman evidence. She is required to file her affidavit. Despite, providing a number of opportunities, workman has not been appearing since long to substantiate her claim.

In these circumstances, when the claimant is not interested in pursuing her claim. Her claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 19th September, 2024

ATUL KUMAR GARG, Presiding Officer